AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

304-743
G.S.A.

9-18-79
Vol. 44 No. 182
Pages 54031-54290

federal register

Tuesday
September 18, 1979

Highlights

ADDRESSES FOR DELIVERY OF COMMENTS

Some readers of the **FEDERAL REGISTER** have complained that it is difficult to hand deliver comments on agency rulemakings. Agencies always give a mailing address, but when that address is a post office box, it may take many phone calls to find out where to deliver comments. Consider saving the readers' time by including this information in proposed rule documents. For example—

ADDRESSES: Comments may be mailed to Box 1, Washington, D.C. 00000, or delivered to Room 1, 1 First Street, Washington, D.C. between 8:45 am and 5:15 pm. Comments received may also be inspected at Room 1 between 8:45 am and 5:15 pm.

54031 **National Employ the Handicapped Week, 1979** Presidential proclamation

54033 **National Diabetes Week, 1979** Presidential proclamation

54035 **President's Management Improvement Council** Executive order

54268 **Cultural Resources** USDA/FS publishes proposed policies and procedures dealing with enhancement, protection, and management; comments by 11-19-79 (Part VI of this issue)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Area Code 202–523–5240

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54068 **Motor Gasoline Allocation** DOE/ERA defers effective date, suspends enforcement, cancels hearing, and issues intent to propose rules relating to downward certification and adjustments and assignments for new retail outlets

54037 **Free and Reduced Rate Meals and Free Milk in Schools** USDA/FNS rescinds final amendment on determining eligibility; effective 9–18–79

54076 **National School Lunch and School Breakfast Programs** USDA/FNS extends comment period; comments by 10–6–79

54222 **Disposal Sites** EPA proposes guidelines for specification regarding discharge of dredged or fill material into U.S. waters (Part III of this issue)

54284 **Toxic Substances** EPA proposes rules pertaining to data reimbursement; comments by 11–19–79 (Part VII of this issue)

54111 **Vessel Sewage** EPA lists factors to be addressed in petitions to establish prohibitions of discharges in Drinking Water Intake Zones

54073 **Emergency Watershed Protection** USDA/SCS proposes general implementation procedures; comments by 11–19–79; effective as interim rules 10–1–79

54038 **Food Stamp Program** USDA/FNS provides additional requirements regarding notification of currently ineligible households entitled to restoration of lost benefits; effective 9–18–79

54127 **National Direct Student Loan Programs** HEW/OE gives notice of closing dates for filing applications, corrections and appeals for funds, and for establishing eligibility

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54153 **Sunshine Act Meetings**

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Presidential Documents

Title 3—

The President

Proclamation 4685 of September 13, 1979

National Employ the Handicapped Week, 1979

By the President of the United States of America

A Proclamation

The past decade has been marked by significant advances for handicapped people.

Such laws as the Rehabilitation Act of 1973 protect many handicapped individuals from discrimination in employment and services. Handicapped workers have made great progress in entering the job market, and those already in the labor force are moving up to better jobs. More of our Nation's buildings and public transportation systems are being made accessible. Many handicapped individuals have been moving out of institutions into homes, apartments, and community facilities which facilitate independent living. As handicapped individuals move into the mainstream of society, more and more of their fellow citizens are overcoming their prejudices and seeing handicapped individuals as people.

Yet much remains to be done. Many qualified handicapped people, including many disabled veterans, are unemployed or underemployed, and others are not promoted because of discriminatory attitudes rather than an inability to perform. Many buildings still have thoughtless architectural barriers that prevent handicapped persons from getting jobs and education. Public transportation is still not available to all handicapped individuals.

This country needs the creativity, skill and participation of all our citizens. To affirm our commitment to equality for the handicapped members of our society, the Congress, by joint resolution of August 11, 1945, as amended (36 U.S.C. 155), has called for the designation of the first full week in October each year as National Employ the Handicapped Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning on October 7, 1979, as National Employ the Handicapped Week. I urge all Governors, Mayors, other public officials, leaders in business and labor, and private citizens at all levels of responsibility to help remove all barriers which prevent handicapped individuals from obtaining productive employment and from participating fully in other aspects of American life.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of September, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 79-29028
Filed 9-14-79; 1:59 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 4686 of September 14, 1979

National Diabetes Week, 1979

By the President of the United States of America

A Proclamation

Diabetes mellitus affects the lives of 10 million Americans. Each year, 35,000 Americans die from this disease, and many times that number fall victim to heart attack, stroke, kidney failure, blood vessel disease and blindness related to diabetes. Diabetes now costs the country more than $6 billion annually in health care expenses, disability payments and lost wages.

A major national effort is underway among Federal agencies, State and local governments, academic institutions and voluntary health organizations to combat diabetes and its complications, which so often compromise the quality of life of its victims. There is optimism in the scientific community that research is leading to greater understanding and improved methods of treatment for diabetes and its complications. We must continue to focus attention on the needs of the many victims of diabetes in the United States if we are ever to reduce the impact of this disease as a source of human suffering in our Nation.

The Congress, by Joint Resolution enacted August 13, 1979 (Public Law 96–51), has authorized and requested the President to designate the week of October 8 through October 14, 1979, as National Diabetes Week.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the week of October 8 through October 14, 1979, as National Diabetes Week.

I call upon public and private agencies and organizations to recognize and observe it appropriately. I invite the Governors of the States, the Commonwealth of Puerto Rico and officials of other areas subject to the jurisdiction of the United States to issue similar proclamations.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of September, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 79-29064
Filed 9-14-79; 3:14 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12157 of September 14, 1979

President's Management Improvement Council

By the authority vested in me as President by the Constitution of the United States of America, in accordance with the Federal Advisory Committee Act (5 U.S.C. App. I), and in order to improve the management effectiveness of Executive agencies, it is hereby ordered as follows:

1–1. *Establishment of the Council.*

1–101. There is hereby established the President's Management Improvement Council.

1–102. The Council shall be Cochaired by the Director of the Office of Management and Budget and the Director of the Office of Personnel Management. The Council's membership shall consist of representatives from Executive agencies and from the non-Federal sector; such as business, industry, organized labor, foundations, universities, and State and local governments. The members shall be appointed by the President.

1–2. *Functions of the Council.*

1–201. The Council shall advise the President on significant and critical management problems and issues affecting Executive agencies and Government programs.

1–202. The Council shall work cooperatively with the Comptroller General, senior program management and administrative officials, and Inspectors General to provide advice and guidance on specific management improvement projects involving one or more Executive agencies.

1–203. Where feasible, the Council shall advise the Executive agencies in the development of management systems or management techniques to improve the effectiveness and responsiveness of Federal programs.

1–204. The Council shall advise the Executive agencies of solutions to critical management problems, as well as the constraints on management effectiveness.

1–205. In developing its recommendations, the Council shall utilize the experience of the public and private sectors. The Council shall also identify and facilitate the application to Federal programs of appropriate successful systems and techniques which have been used elsewhere in the public and private sectors.

1–206. The Cochairmen shall report to the President on the performance of the Council's functions.

1–3. *Administrative Provisions.*

1–301. The Director of the Office of Personnel Management shall, to the extent permitted by law, provide the Council with administrative and staff services, support and facilities as may be necessary for the effective performance of its functions.

1–302. Each member of the Council, who is not otherwise a full-time employee of the Federal Government, shall receive no compensation from the United States by virtue of their service on the Council, but all members may receive the transportation and travel expenses, including per diem in lieu of subsistence, authorized by law (5 U.S.C. 5702 and 5703).

1–4. *General Provisions.*

1–401. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App. I), except that of reporting annually to the Congress, shall be performed by the Director of the Office of Personnel Management in accordance with guidelines and procedures established by the Administrator of General Services.

1–402. The Council shall terminate on December 31, 1980, unless sooner extended.

Jimmy Carter

THE WHITE HOUSE,
September 14, 1979.

Editorial Note: The President's memorandum to the heads of executive departments and agencies, dated Sept. 14, 1979, and a White House announcement of Sept. 14, 1979, on the membership of the Council and designation of cochairpersons, is printed in the Weekly Compilation of Presidential Documents (vol. 15–no. 37)

FR Doc. 79–29065
Filed 9–14–79; 3:15 pm]
Billing code 3195–01–M

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 245

[Amdt. 16]

Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools; Rescission of Final Amendment

AGENCY: Food and Nutrition Service, USDA.

ACTION: Rescission of final regulation.

SUMMARY: On August 10, 1979 (44 FR 47034) the Department published final regulations amending Part 245 (Amendment 15) providing for a change in the required method of announcing eligibility criteria for free and reduced price meals to limit the potential for abuse of free and reduced price meal and free milk benefits. Amendment 15 allowed School Food Authorities (SFAs) the option to exclude the free meal/milk eligibility scales in the letter to parents. The District Court for the District of Columbia, in the case of *Clara Card, et al.* v. *Bergland* (Civil Action No. 79–2226) issued a Temporary Restraining Order on August 29, 1979, prohibiting implementation of Amendment 15 through September 6, 1979. The effect of the Court's order was that all SFAs must state both free and reduced price eligibility scales in the parental letter issued for this school year. SFAs which exercised the option provided in Amendment 15 prior to the Court's order must state both free and reduced price eligibility scales in an amended parental letter. As a result of the Court's order, the Department is hereby rescinding Amendment 15. The Department expects at a later date to propose new regulations addressing the issue of potential for abuse of free and reduced price meals and free milk benefits.

EFFECTIVE DATE: September 18, 1979.

FOR FURTHER INFORMATION CONTACT: Margaret O'K. Glavin, Director, School Programs Division, USDA, FNS, Washington, D.C. 20250, (202) 447–8130.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 1979, there was published in the **Federal Register** Amendment 15 to Part 245 (44 FR 47034). On August 29, a motion for a temporary restraining order (T.R.O.) was filed in the United States District Court for the District of Columbia in the case of *Clara Card, et al.* v. *Bergland.* The plaintiffs contended that the Department violated the Administrative Procedures Act and the National School Lunch Act in issuing the amendment. Upon consideration of plaintiffs' motion, the Court ordered that the defendants "shall neither implement, nor cause to have implemented, nor permit States or local school districts to implement," the recently promulgated Amendment 15. This temporary restraining order extended from August 29 through September 6, 1979.

To comply with the T.R.O. the Department, through the Food and Nutrition Service Regional Offices, on August 31, 1979, advised State agencies which administer the school nutrition programs at the local level that: (a) Those SFAs having already sent out parental letters which did not include the free meal scales under Amendment 15 must under the T.R.O. announce free meal eligibility scales in an amended letter to parents, and (b) those SFAs which would be sending out parental letters from August 29 through September 6 must provide both the free and reduced price eligibility criteria in parental letters.

The Department recognized that SFAs could not afford to wait until after September 6 for the Court's decision on whether to grant a preliminary injunction. Further, the Department appreciates the need to avoid any additional administrative confusion at the beginning of this school year. These concerns have influenced the Department's decision to rescind Amendment 15.

This decision to rescind Amendment 15 bears no reflection upon the Department's commitment to reduce the potential for fraud and abuse in the school feeding programs. The Department has decided to rescind the amendment primarily to avoid additional administrative confusion at the beginning of the school year but also because it believes that the issue should be considered solely on its own merits rather than on procedural grounds. The Department does not believe local SFAs implementing the amendment in good faith should be subject to on-going disruptions in school food service operations.

The Department expects to propose changes in the announcement of eligibility criteria. The proposal will allow for additional public comment on the issues addressed by Amendment 15. If, subsequent to the comment period, new final regulations are issued, the Department will ensure sufficient time is given for SFAs to implement these regulations.

Accordingly, Amendment 15 to Part 245 is rescinded. Part 245 is amended as follows:

§ 245.1 [Amended]

1. In § 245.1 all revisions set forth by Amendment 15 are revoked, Section 245.1 will read as set forth prior to said amendment.

§ 245.5 [Amended]

2. In § 245.5 all revision set forth by Amendment 15 are revoked, Section 245.5 will read as set forth prior to said amendment.

§ 245.6 [Amended]

3. In § 245.6 all revisions set forth by Amendment 15 are revoked, Section 245.6 will read as set forth prior to said amendment.

Note.—The final rule 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 those criteria. A Final Impact Statement has been prepared and is available from the Director, School Programs Division, 201 14th Street, SW., Room 4122, Washington, D.C. 20250 during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday).

Authority: Sec. 6c, Pub. L. 94–105, 89 Stat. 513 (42 U.S.C. 1758).

Dated: September 13, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-28920 Filed 9-17-79; 8:45 am]

BILLING CODE 3410-30-M

7 CFR Part 272

[Amdt. No. 145]

Food Stamp Program; Lost Benefits to Currently Ineligible Households

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rulemaking modifies 7 CFR 272.1(g)(1)(iv)(B) (published on October 17, 1978 at 43 FR 47846 to 47934) by providing additional requirements for State agencies regarding notification of currently ineligible households entitled to restoration of lost benefits.

EFFECTIVE DATE: September 18, 1979.

FOR FURTHER INFORMATION CONTACT: Susan McAndrew, Chief, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, Washington, D.C. 20250. 202-447-6535

SUPPLEMENTARY INFORMATION: On May 18, 1979 the Department published a notice of proposed rulemaking expanding the requirements for State agencies unable to readily identify and individually notify currently ineligible households entitled to restoration of lost food stamp benefits. The rulemaking requires such State agencies to request and utilize the assistance of other government agencies and specified organizations. Forty comment letters were received in response to the proposed rulemaking.

Fourteen commenters suggested that individual notice be mandated. Several of these commenters expressed the belief that individual notification is the only constitutionally adequate form of notice, while others suggested that individual notification be mandated in rural project areas where posters and fliers might not be an effective form of notification. The majority of commenters favoring individual notice believed that if State agencies had properly complied with 7 CFR 271.1(g)(5) (1978), which required the recording of a currently ineligible household's entitlement to restoration of lost benefits, a time consuming case file search would not be necessary. This belief is erroneous since annotation of individual case files, although constituting compliance with § 271.1(g)(5), would require a manual case file search to identify such households unless the State agency had the capability to generate a list of currently ineligible households entitled to restoration of lost benefits. In view of the relatively small number of currently ineligible households entitled to restoration of lost benefits and the cost of a manual case file search, the Department has determined that notification through posters and fliers would be adequate. Furthermore, this rulemaking applies to *currently ineligible households* (emphasis added), none of whom are, by definition, eligible to participate in the Food Stamp Program. Since such households are no longer in need of food assistance the Department believes the high cost of a manual file search cannot be justified.

In contrast to the above comments, fifteen commenters stated that the one-time press release constituted adequate notice and that the additional requirements of the May 18, 1979 rulemaking would be costly and ineffective.

These commenters, all of whom are State agencies, cited the small number of currently ineligible households entitled to restoration of lost benefits and questioned the cost-effectiveness of the proposal. The Department has determined that the press release combined with posters and fliers is the minimum adequate method of notifying currently ineligible households entitled to lost benefits, and although some State agencies consider this burdensome, it is considerably less time consuming than the alternative of individual notice and the requisite manual case file review. The Department also wishes to emphasize that households entitled to restoration of lost benefits under this rulemaking are so entitled as the result of State agency errors.

In response to comments from both State agencies and advocacy groups, the Department has modified the May 18, 1979 proposed rule to specifically provide State agencies unable to readily identify currently ineligible households entitled to restoration of lost benefits with the option of either a manual case file search and individual notice, or notification under § 272.1(g)(1)(iv)(B). Such State agencies may also elect to provide individual notice in some project areas while providing notice as required by § 272.1(g)(1)(iv)(B) in other project areas. Project areas which have provided or will provide individual notice are exempt from the requirements of § 272.1(g)(1)(iv)(B).

In response to seven comments the notice is being modified to specifically provide that households which no longer reside in the project area in which benefits were lost are entitled to restoration. The notice also advises households that never participated in the program that they may be entitled to restoration of lost benefits if the household's original application was improperly denied.

Several commenters expressed the opinion that translations of the notice should be provided in project areas subject to the bilingual requirements of 7 CFR 272.4(c). The Department agrees with these comments and has revised the proposed rule accordingly. Since a significant number of project areas have large Spanish speaking populations, the Department will provide a Spanish translation of the materials to State agencies on request. State agencies will be responsible for providing translations into other languages. The Department will provide reimbursement for the production costs of translated materials.

Several commenters suggested that the Department mandate the locations where posters are to be displayed. Locations suggested include public housing projects, laundromats and other locations where low-income persons are known to congregate. The Department has determined that mandating the locations for display of posters is unnecessary for two reasons. First, there is a great diversity among the project areas where the posters are to be displayed. Secondly, the organizations which will be assisting in the notification effort have outreach experience and can determine the best locations for display of the posters.

Several State agencies expressed concern about possible delays in the distribution of posters and notices and suggested direct distribution of these materials to the agencies and organizations taking part in the notification effort. The Department will provide direct distribution of the posters and notices if State agencies requesting such distribution provide preaddressed mailing labels.

In response to comments the time period for display of posters will run for six months commencing with the date they are displayed.

This rule affects only those households previously known to be entitled to benefits and whose entitlement is documented. Furthermore, households whose entitlement to benefits has been established and documented in case files may apply for benefits for an indefinite period. This was not mentioned in the proposed rule, but it is clear that for those households there should not be a cut off date past which their claims will not be honored. Because case files may no longer exist for households who lost benefits more

than three years prior to application under the new rule, the rule as proposed has been changed to authorize State agencies to pay retroactive benefits under such circumstances on the basis of an affidavit signed by the applicant, under penalty of perjury, explaining the household's entitlement. All households who may be entitled to benefits, but whose entitlement is not yet established may establish entitlement under the regulatory provisions current in effect under 7 CFR 273.17(a).

The appendix to this rulemaking contains the language of the mailing to the outreach organizations and governmental agencies assisting in the notification of currently ineligible households entitled to lost benefits, and the language of the poster and notice to the households.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

Accordingly, § 272.1 of Chapter II, Title 7, Code of Federal Regulations is amended to read as follows:

In § 272.1(g)(1)(iv)(B), strike all language and substitute the following:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

* * * * *

(1) *Amendment 132.* * * *

* * * * *

(iv) * * *

* * * * *

(B) Other State agencies shall issue a one-time-only press release notifying ineligible households that benefits can be restored. The press release shall advise households to contact the local food stamp office for more information. In addition, State agencies issuing the press release shall request the assistance of local Community Action Programs, general assistance agencies, legal services programs funded by the Legal Services Corporation, State employment service and unemployment compensation offices, all groups listed in the State Food Stamp Outreach Action Plan and other State and Federal governmental agencies providing services to low-income households, such as the Social Security Administration or the Community Services Administration. FNS shall provide the State agency with copies of the letter to be used to request assistance from outreach organizations and governmental agencies, and the fliers and posters which will be distributed upon request to such organizations and agencies. The language of the request for assistance, the notice to households and the poster is contained in the appendix to this rulemaking. State agencies shall mail the request for assistance and display posters in all local agency food stamp certification and issuance offices and welfare offices within 30 days of receipt from FNS. In project areas subject to the bilingual requirements of § 272.4(c), State agencies shall provide translations of the posters and fliers. Upon request, FNS shall provide Spanish posters and fliers. FNS shall reimburse State agencies for all costs of providing translations of the posters and fliers in languages other than Spanish. The State agency shall display the posters in its offices for six months. Households whose entitlement to benefits has been clearly established may apply for restoration of lost benefits under this subparagraph for an indefinite period. Households whose entitlement to restoration of lost benefits was established more than three years prior to application for retroactive benefits under this subparagraph shall be permitted to document entitlement if entitlement cannot be verified from State agency records. Such households shall sign an affidavit under penalty of perjury explaining their entitlement. In lieu of the requirements of this paragraph, State agencies may elect to provide notice pursuant to paragraph (g)(1)(iv)(A) in any or all project areas within the State.

Appendix.—Text of Letter of Request for Assistance

Dear Friend: Again we are requesting your help in publicizing a change in the Food Stamp Program. As you may know, recently published food stamp regulations provide for the payment of lost benefits to all food stamp households which are entitled to such benefits. Under prior regulations households which lost benefits as the result of an error could not receive such benefits if the benefits were to be issued at a time when the household was not eligible to participate in the Program. The lost benefits could only be issued if and when the household again became eligible to participate in the Program. Under the new regulations households which have outstanding entitlements to lost benefits will be able to receive their benefits regardless of current eligibility. We are requesting your assistance in making it known that currently ineligible households with outstanding entitlements to lost benefits may now claim these benefits.

Enclosed is a copy of the notice advising currently ineligible households of the availability of lost benefits. A poster which contains language similar to that of the notice is also available. Copies of the notice and the poster can be obtained by contacting the State or local food stamp office.

Sincerely,

Text of Poster and Notice to Currently Ineligible Households Entitled to Lost Benefits

Attention Former Food Stamp Users

Due to a change in the food stamp rules, you may now receive retroactive food stamp benefits, even though you are not now on food stamps.

If—at any time in the past:

(1) You were notified that the food stamp office made a mistake on your case (including improper denial of your application) *or*

(2) You won a fair hearing; but

(3) You couldn't get the additional benefits owed you because you weren't on the program—

Then visit, call or write your local food stamp office.

REMEMBER:

(1) You don't have to be on food stamps now to get these benefits and if you have moved you can still get benefits by applying to the office where you lost benefits;

(2) If you don't agree with the decision of the food stamp office after they review your file, you have the right to request a fair hearing.

USDA policy does not permit discrimination because of race, color, sex, age, handicap, religion, national origin or political belief. Any person who believes he or she has been discriminated against in any USDA related activity should write immediately to the Secretary of Agriculture, Washington, D.C. 20250.

(91 Stat. 958 as amended (7 U.S.C. 2011–2027))

Note.—This final rule 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 those criteria. A Final Impact Statement has been prepared and is available from the Food and Nutrition Service.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: September 13, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-28853 Filed 9-17-79; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 927

[Pear Reg. 18, Amdt. 1]

Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne Du Comice, Beurre Easter, and Beurre Clairgeau Varieties of Pears Grown in Oregon, Washington, and California; Extension of Effective Period for Minimum Quality Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment continues through November 1, 1979, certain quality requirements applicable to fresh shipments of Beurre D'Anjou pears which are shipped from designated areas of Oregon and Washington. This action is necessary to assure that pears shipped will be of suitable quality in the interest of consumers and producers.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* Pear Regulation 18 was published in the **Federal Register** on July 30, 1979 (44 FR 44469). On August 9, 1979 (44 FR 46852), a notice was published to extend the regulatory provisions of this regulation through November 1, 1979. The notice allowed interested persons until September 7, 1979, to submit written comments pertaining to the proposals. None were received.

This amendment is issued under the marketing agreement, as amended, and Order No. 927, as amended (7 CFR Part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Control Committee, and upon other available information.

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is hereby found that the following amendment is in accordance with this marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found good cause exists for not postponing the effective date of this amendment until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of Beurre D'Anjou pears are currently in progress and this amendment should be applicable to all shipments during the season in order to effectuate the declared policy of the act; (2) the amendment is the same as that specified in the notice to which no exceptions were filed; (3) the regulatory provisions are the same as those currently in effect; and (4) compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

This final rule has been reviewed under the USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant". An Impact Analysis is available from Malvin E. McGaha, 202–447–5975.

The provisions of § 927.318 (Pear Regulation 18; 44 FR 44469) are hereby amended to read as follows:

§ 927.318 Pear Regulation 18.

During the period October 1, 1979, through November 1, 1979, no handler shall ship any Beurre D'Anjou variety of pears grown in Medford, Hood River-White Salmon-Underwood, Wenatchee, and Yakima Districts unless such pears have an appropriate certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core temperature of such pears has been lowered to 35 degrees Fahrenheit or less, and any such pears for domestic shipment shall have an average pressure test of 14 pounds or less.

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

Dated: September 13, 1979.

D. S. Kuryloski,

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

[FR Doc. 79–28854 Filed 9–17–79; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Parts 927 and 931

[Marketing Agreements and Orders; Fruits, Vegetables, Nuts]

Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau Varieties of Pears Grown in Oregon, Washington, and California; Fresh Bartlett Pears Grown in Oregon and Washington; Expenses and Rates of Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rules.

SUMMARY: This action authorizes expenses and rates of assessment for the 1979–80 fiscal period, to be collected from handlers to support activities of the committees which locally administer the Federal marketing orders covering Oregon, Washington, and California winter pears, and Bartlett pears grown in Oregon and Washington.

EFFECTIVE DATES: Effective July 1, 1979, through June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This document is issued under Marketing Order Nos. 927, as amended, and 931 (7 CFR Parts 927 and 931), respectively regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California, and Bartlett pears grown in Oregon and Washington. These marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Control Committee and the Northwest Fresh Bartlett Pear Marketing Committee, and upon other information. It is found that the expenses and rates of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), as the orders require that the rates of assessment for a particular fiscal year shall apply to all assessable pears handled from the beginning of such year which began July 1, 1979. To enable the committees to meet fiscal obligations which are now accruing, approval of the expenses and assessment rates is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rates at an open meeting of each committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comments. The regulation has not been classified significant under the USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, 202–447–5975.

Marketing Order 927:

§ 927.219 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Control Committee during the period July 1, 1979, through June 30, 1980, will amount to $121,167.

(b) The rate of assessment for said period payable by each handler in accordance with § 927.41 is fixed at $0.01 per standard western pear box of pears, or an equivalent quantity of pears in other containers or in bulk.

Marketing Order 931:

§ 931.214 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Northwest Fresh Bartlett Pear Marketing Committee during the period July 1, 1979, through June 30, 1980, will amount to $23,501.

(b) The rate of assessment for said period payable by each handler in accordance with § 931.41 is fixed at $0.005 per standard western pear box of pears, or an equivalent quantity of pears in other containers or in bulk.

(c) Unexpended funds in excess of expenses incurred during the fiscal period ended June 30, 1979, shall be carried over as a reserve in accordance with the applicable provisions of § 931.42.

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

Dated: September 13, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-28919 Filed 9-17-79; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Quality Service

9 CFR Part 318

Nitrates and Nitrites

Correction

In FR Doc. 79–25824 appearing on page 48959 in the issue of Tuesday, August 21, 1979, in the second column, in the amendments for § 318.7, "Cured products. Nitrates may not be used in baby, junior, or toddler foods." should have read "Cured products. Nitrites may not be used in baby, junior, or toddler foods."

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket Nos. ERA-R-79-23B and ERA-R-79-36]

Motor Gasoline Allocation; Downward Certification and Adjustments and Assignments for New Retail Outlets

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule deferring effective date; suspension of enforcement; cancellation of public hearing; and notice of intent to issue proposed rules.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces its intent to issue a proposed rule, receive written comments, and hold a public hearing concerning (1) downward adjustment and certification procedures for wholesale purchaser-resellers of motor gasoline and (2) allocation assignments for new retail outlets. The effective date of 10 CFR 211.107(d) relating to downward certification will be deferred pending completion of that rulemaking.

ERA's September 20, 1979 hearing on its July 15, 1979 rule pertaining to assignments for new retail outlets is cancelled in light of our intent also to issue a new proposal on this topic. Pending completion of the rulemaking on the new proposal, ERA will not apply the July 15 rule to limit allocations for new outlets to 50,000 gallons per month but instead will apply the criteria of the previous rule.

EFFECTIVE DATE: September 11, 1979.

FOR FURTHER INFORMATION CONTACT:

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

William Caldwell (Regulation & Emergency Planning), Economic Regulatory Administration, 2000 M Street, NW., Room 2304, Washington, D.C. 20461, (202) 254–8034.

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

SUPPLEMENTAL INFORMATION: On July 15, 1979, we adopted, as part of our motor gasoline allocation base period final rule, a provision (10 CFR 211.107(d)) relating to the downward adjustment and certification procedures for wholesale purchaser-resellers of motor gasoline whose supply obligations decrease. The effective date of the provision was to be September 1, 1979. Further comments, however, were solicited until September 20, 1979. On August 22, 1979, we deferred the effective date until October 1, 1979 in order that all comments on the rule could be considered before the rule becomes effective.

We have now determined, in light of the comments already received and a recommendation by DOE's motor gasoline marketers' advisory committee, that the effective date of 10 CFR 211.107(d) should be further deferred so that we may: (1) Issue a notice of proposed rulemaking (NOPR) suggesting certain changes with respect to downward adjustments, (2) hold a public hearing on the proposal, and (3) receive written comments on the proposal. It is our intention to issue the NOPR as soon as possible. In the meantime, notice is hereby given that 10 CFR 211.107(d) will not go into effect on October 1 and that commenters need not file written comments by September 20. The NOPR will establish subsequent due dates for the submission of both written and oral comments on the subject of downward certification.

In addition, on July 15, 1979 we also adopted a provision (10 CFR 211.105(a)(2)(ii)) that imposed a temporary ceiling of 50,000 gallons per month on allocations for new retail sales outlets of motor gasoline. A public hearing was scheduled to be held on September 20, 1979 on the rule. On September 6, 1979, the United States District Court for the District of Columbia enjoined ERA from utilizing the new section with respect to a number of firms (*Vickers Petroleum Corp.* v. *DOE*). In light of the injunction in that case, we have decided to suspend generally the use of the 50,000 gallon per month limit contained in § 211.105(a)(2)(ii). A NOPR we expect to issue shortly will deal with the appropriate size of allocation assignments for new retail outlets and will solicit further public comment on that issue. Therefore the September 20 hearing will be cancelled pending the issuance of the NOPR.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

Issued in Washington, D.C., September 11, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

[FR Doc. 79-28931 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL TRADE COMMISSION

16 CFR Parts 1, 2, 3

Trade Regulation Rulemaking Procedures; Procedures for Asserting Privilege in Response to Compulsory Process or Request for Voluntary Production of Material

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: These final rules require a person withholding material responsive to a subpoena, order or a request for voluntary production of material, based on a claim of privilege or similar claim, to assert this claim on or before the date on which the subpoena is due. Under the new rules, it will not be permissible to file a motion to limit or quash compulsory process solely for the purpose of asserting claims of privilege.

EFFECTIVE DATE: September 18, 1979.

FOR FURTHER INFORMATION CONTACT: Linda Heary, Attorney, Office of General Counsel, Federal Trade Commission, 6th Street & Pennsylvania Ave., NW., Washington, D.C. 20580, (202) 523-1916.

SUPPLEMENTARY INFORMATION: It has come to the Commission's attention that, in a few instances, persons have withheld assertedly privileged material responsive to a subpoena without adequately notifying the Commission of the incomplete nature of the subpoena return. Because of the existing uncertainty regarding legal and ethical obligations in this situation, the Commission has adopted specific rules which establish procedures to follow in asserting claims of privilege. The new rules require a person to indicate, on or before the date on which response is due, that material responsive to a subpoena, order, or request for voluntary production of material will be withheld, based on a claim of privilege or similar claim, and to state the nature of such claim. The new rules apply to all material subject to a request or demand for production and apply in all Commission investigative, rulemaking and adjudicative proceedings.

The types of claims governed by these new rules include claims based on privilege (*e.g.*, attorney-client privilege or the Fifth Amendment), or judicial order. A statutory claim is also governed by these rules in those instances where the statute shields specific items. (*See, e.g.*, the Census Act, 13 U.S.C. Sec. 9(a)(3), which prohibits any government agency, other than the Department of Commerce, from issuing compulsory process for a copy of a census report retained by any person or corporation). It is important to note that trade secrets, customer names or other competitively sensitive information do not constitute privileged information and may not be withheld from the agency.

The new rules do not regulate the procedures for raising objections to a subpoena based on burden, relevance, or similar grounds. Any person objecting to compulsory process on those grounds must raise these issues in a motion to limit or quash. To avoid delay in responding to subpoenas, no one will be permitted under the new rules to file a motion to limit or quash a subpoena or portion of a subpoena where the sole objection to the subpoena is based on claims of privilege or the like.

In consideration of the foregoing, CHAPTER I of 16 CFR is amended as follows:

PART 1—GENERAL PROCEDURES

§1.13 [Amended]

1. In Part 1 by amending §1.13(d)(6) to read as follows:

* * * * *

(d) * * *

(6) *Requests to compel the attendance of persons or the production of documents or to obtain responses to written questions.*—(i) During the course of the rulemaking proceeding the presiding officer shall entertain requests from interested persons to compel the attendance of persons or the production of documents or to obtain responses to written questions on behalf of the Commission's staff or any interested person. The presiding officer may require the payment of a fee to any person to whom such requests are directed in accordance with § 4.5 of this chapter. Requests to compel the attendance of persons or the production of documents or to obtain responses to written questions shall contain a statement showing the general relevancy of the material, information or presentation, and the reasonableness of the scope of the request, together with a showing that such material, information or presentation is not available by voluntary methods and cannot be obtained through examination, including cross-examination, or oral presentations or the presentation of rebuttal submissions, and is appropriate and required for a full and true disclosure with respect to the issues designated for consideration in accordance with paragraphs (d)(5) and (d)(6) of this section. Any motion to limit or quash a ruling to compel the attendance of persons or the production of documents or to obtain responses to written questions shall be filed with the presiding officer within ten (10) days after service thereof, or within such other time as the presiding officer may allow. Such motion shall set forth all assertions of privilege or other factual and legal objection to the ruling, including all appropriate argument, affidavits and other supporting documentation. The presiding officer may, in his sole discretion, certify a ruling on such motion to quash to the Commission pursuant to paragraph (c)(2) of this section. The Commission may, on its own motion, review a determination of the presiding officer under this subsection which requires the production of confidential Commission records or the appearance of an official or employee of the Commission or another government agency.

(ii) Any person withholding material responsive to a subpoena or request for production of material shall assert all claims of privilege or similar claims not later than the date set for the production material. Such person shall, if so directed in the subpoena or other request for production, submit, together with such claim, a schedule of the items withheld which states individually as to each such items the type, title, specific subject matter, and date of the items; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific grounds for claiming that the item is privileged.

(iii) A person withholding material solely for the reasons described in § 1.13(d)(6)(ii) shall comply with the requirements of that section in lieu of filing a motion to quash or limit compulsory process.

PART 2—NONADJUDICATIVE PROCEDURES

2. In Part 2 by adding a new § 2.8A to read as follows:

§ 2.8A Withholding requested material.

(a) Any person withholding material responsive to an investigational subpoena issued pursuant to § 2.7, an

access order issued pursuant to § 2.11, an order to file a report issued pursuant to § 2.12, or any other request for production of material issued under this Part, shall assert a claim of privilege or any similar claim not later than the date set for the production of material. Such person shall, if so directed in the subpoena or other request for production, submit, together with such claim, a schedule of the items withheld which states individually as to each such item the type, title, specific subject matter, and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific grounds for claiming that the item is privileged.

(b) A person withholding material solely for reasons described in § 2.8A(a) shall comply with the requirements of that subsection in lieu of filing a motion to limit or quash compulsory process.

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

3. In Part 3 by adding a new § 3.38A to read as follows:

§ 3.38A Withholding Requested Material.

(a) Any person withholding material responsive to a subpoena issued pursuant to § 3.34, written interrogatories authorized pursuant to § 3.35, an access order issued pursuant to § 3.37, or any other request for production of material issued under this Part, shall assert a claim of privilege or any similar claim not later than the date set for the production of material. Such person shall, if so directed in the subpoena or other request for production, submit, together with such claim, a schedule of the items withheld which states individually as to each such item the type, title, specific subject matter, and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific grounds for claiming that the item is privileged.

(b) A person withholding material for reasons described in § 3.38A(a) shall comply with the requirements of that subsection in lieu of filing a motion to limit or quash compulsory process.

(Sec. 5, 38 Stat. 719 as amended; (15 U.S.C. 45))

By direction of the Commission, dated August 23, 1979.

Carol M. Thomas,

Secretary.

[FR Doc. 79-28953 Filed 9-17-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 5, 312, 314

[Docket No. 79N-0150]

Plasma Volume Expanders; Reassignment of Administrative Responsibility

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is reassigning the administrative responsibility for approval of certain plasma volume expanders (dextran and hydroxyethyl starch) from FDA's Bureau of Drugs to its Bureau of Biologics. The agency is also amending certain delegations of authority relating to this reassignment of responsibility. The reassignment will result in more effective regulation of these products.

EFFECTIVE DATE: October 18, 1979.

FOR FURTHER INFORMATION CONTACT: Robert D. Bradley, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 25, 1975 (40 FR 31311), FDA announced that it was reviewing products that historically have been regulated by the Bureau of Drugs or the Bureau of Biologics to determine whether there was a need to reassign responsibility for any of them to achieve maximum administrative efficiency. As a result of this review, responsibility for some products has already been reassigned between the two bureaus as follows: (1) Radioactive biological products were reassigned to the Bureau of Drugs by regulations published in the **Federal Register** of July 25, 1975 (40 FR 31314); (2) the responsibilities for containers for collecting and processing blood and blood components were reassigned to the Bureau of Biologics by regulations published in the **Federal Register** of August 13, 1975 (40 FR 33971); and (3) urokinase was reassigned to the Bureau of Biologics by regulations published in the **Federal Register** of November 23, 1976 (41 FR 51588).

This document transfers responsibility for certain plasma volume expanders, i.e., dextran and hydroxyethyl starch, from the Bureau of Drugs to the Bureau of Biologics.

Plasma volume expanders are artificial, nonbiological products adminstered by intravenous infusion to increase the volume of blood plasma. They are used most often in treating shock victims. Plasma volume expanders for which there are approved new drug applications (NDA's) are dextrans, povidone, and hydroxyethyl starch.

Plasma volume expanders have not been viewed as biological products under section 351 of the Public Health Service Act (42 U.S.C. 262) and this notice does not suggest a change in their legal status. However, because the Bureau of Biologics already regulates plasma and whole blood under the Public Health Service Act, its handling of closely related plasma volume expanders will provide more effective regulation of these products, notwithstanding that they remain subject to the new drug provisions in section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355).

As a result of this final rule, responsibility for all active "Notices of Claimed Investigational Exemption for a New Drug" (IND's) and approved NDA's for dextran and hydroxyethyl starch for use as a plasama volume expander, and hydroxyethyl starch for leukapheresis is transferred to the Bureau of Biologics. There are no pending NDA's for any plasma volume expanders. All future IND's, NDA's, and supplemental NDA's for dextran for use as a plasma volume expander and hydroxyethyl starch for plasma volume expansion and leukapheresis should be sent to the Bureau of Biologics.

One NDA for a plasma volume expander containing povidone is not being transferred to the Bureau of Biologics, pending the outcome of an ongoing Bureau of Drugs' review of the safety of this product for its intended use. In the **Federal Register** of December 2, 1977 (42 FR 61308), FDA published a notice of opportunity for a hearing on a proposal to withdraw approval of NDA's for plasma expanders containing povidone and gelatin. Because of an oversight, the notice failed to list the NDA number of the one approved NDA for povidone. Notwithstanding the withdrawal of approval of other NDA's for plasma expanders containing povidone and gelatin (43 FR 14743, April 7, 1978), this NDA holder, on later becoming aware of the proposed action, has submitted data in support of its contention that the basis for withdrawing NDA's for povidone cited in the December 2, 1977 notice was improper. The data are currently under review by the Bureau of Drugs, and

there would be no benefit in transferring this particular review while it is incomplete. An appropriate transfer will be made following the review's completion.

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.

Because the amendments pertain solely to agency administration and designation of responsibility for agency functions, the Commissioner finds for good cause that notice and public procedure are impractical and unnecessary and that the regulation should be made effective October 18, 1979.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 505, 701(a), 52 Stat. 1052–1053 as amended, 1055 (21 U.S.C. 355, 371(a))) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

SUBCHAPTER A—GENERAL

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. Part 5 is amended:

a. In § 5.71 by revising paragraphs (a) and (b) to read as follows:

§ 5.71 Termination of exemptions for new drugs for investigational use in human beings or in animals.

(a) The Director and Deputy Director of the Bureau of Drugs are authorized to perform all functions of the Commissioner of Food and Drugs on the termination of exemptions for new drugs for investigational use in human beings under § 312.1 and in animals under § 312.9 of this chapter, except those for biological products (unless the product is also a radioactive drug), and products under the jurisdiction of the Bureau of Biologics in § 312.1(j) of this chapter for which authority has been delegated in paragraph (b) of this section. The Associate Director and Deputy Associate Director for New Drug Evaluation and the Directors of the Divisions of Anti-Infective Drug Products, Cardio-Renal Drug Products, Surgical-Dental Drug Products, Metabolism and Endocrine Drug Products, Neuropharmacological Drug Products, and Oncology and Radiopharmaceutical Drug Products of the Bureau of Drugs are authorized to notify sponsors and invite correction before termination action on such exemptions.

(b) The Director and Deputy Director of the Bureau of Biologics and the Associate Director for Compliance of that Bureau are authorized to perform all functions of the Commissioner of Food and Drugs on termination of exemptions for new drugs for investigational use in human beings under § 312.1 and in animals under § 312.9 of this chapter for nonradioactive biological products subject to the licensing provisions of section 351 of the Public Health Service Act (42 U.S.C. 262), and products under the jurisdiction of the Bureau of Biologics in § 312.1(j) of this chapter.

* * * * *

b. By revising § 5.80 to read as follows:

§ 5.80 Approval of new drug applications and their supplements.

(a) The Director, Deputy Director, and Associate Director for New Drug Evaluation of the Bureau of Drugs are authorized to perform all functions of the Commissioner of Food and Drugs with regard to approval of new drug applications and supplements thereto on drugs for human use that have been submitted under section 505 of the Federal Food, Drug, and Cosmetic Act, except those under the jurisdiction of the Bureau of Biologics in § 314.1(a)(2) of this chapter for which authority has been delegated in paragraph (b) of this section.

(1) The Directors of the Divisions of Anti-Infective Drug Products, Cardio-Renal Drug Products, Surgical-Dental Drug Products, Metabolism and Endocrine Drug Products, Neuropharmacological Drug Products, and Oncology and Radiopharmaceutical Drug Products of the Bureau of Drugs are authorized to perform all functions of the Commissioner of Food and Drugs with regard to approval of supplemental applications to approved new drug applications for drugs for human use that have been submitted under §§ 314.1(c) and 314.8 of this chapter, except those under the jurisdiction of the Bureau of Biologics in § 314.1(a)(2) of this chapter for which authority has been delegated in paragraph (b) of this section.

(2) The Associate and Deputy Associate Director for Drug Monographs and the Director of the Division of Generic Drug Monographs of the Bureau of Drugs are authorized to perform all functions of the Commissioner of Food and Drugs regarding the approval of abbreviated new drug applications and supplements thereto for drugs for human use that have been submitted under §§ 314.1(f) and 314.8 of this chapter, except those under the jurisdiction of the Bureau of Biologics in § 314.1(a)(2) of this chapter for which authority has been delegated in paragraph (b) of this section.

(b) The Director and Deputy Director of the Bureau of Biologics and the Associate Director for Compliance of that Bureau are authorized to perform all functions of the Commissioner of Food and Drugs with regard to approval of new drug applications and supplements thereto for drugs for human use designated in § 314.1(a)(2) of this chapter as being under the jurisdiction of the Bureau of Biologics.

c. By revising § 5.82 to read as follows:

§ 5.82 Issuance of notices relating to proposals to refuse approval or to withdraw approval of new drug applications and their supplements.

(a) The Director and Deputy Director of the Bureau of Drugs are authorized to issue notices of an opportunity for a hearing on proposals to refuse approval or to withdraw approval of new drug applications and abbreviated new drug applications and supplements thereto on drugs for human use that have been submitted under section 505 of the Federal Food, Drug, and Cosmetic Act and §§ 314.1 and 314.8 of this chapter, except for those under the jurisdiction of the Bureau of Biologics designated in § 314.1(a)(2) for which authority has been delegated in paragraph (b) of this section, and to issue notices refusing approval or withdrawing approval when opportunity for hearing has been waived.

(b) The Director and Deputy Director of the Bureau of Biologics and the Associate Director for Compliance of that Bureau are authrized to issue notices of opportunity for hearing on proposals to refuse approval or to withdraw approval of new drug applications and abbreviated new drug applications and supplements thereto on drugs for human use designated in § 314.1(a)(2) of this chapter as being under the jurisdiction of the Bureau of Biologics that have been submitted under section 505 of the Federal Food, Drug, and Cosmetic Act and §§ 314.1 and 314.8 of this chapter, and to issue notices refusing approval or withdrawing approval when opportunity for hearing has been waived.

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 312—NEW DRUGS FOR INVESTIGATIONAL USE

2. Part 312 is amended in § 312.1 by adding new paragraph (j)(4) to read as follows:

§ 312.1 Conditions for exemptions of new drugs for investigational use.

* * * * *

(j) * * *

(4) Plasma volume expanders and hydroxyethyl starch for leukapheresis should be submitted to the Director, Bureau of Biologics, at the address given in paragraph (j)(2) of this section.

PART 314—NEW DRUG APPLICATIONS

3. Part 314 is amended in § 314.1 by revising paragraph (a)(2) to read as follows:

§ 314.1 Applications.

(a) * * *

(2) Applications, including subsequent amendments and supplements for the products listed in this paragraph should be submitted to the Director, Bureau of Biologics, 8800 Rockville Pike, Bethesda, MD 20205 instead of to the address shown in the heading of Form FD–356H in paragraph (c)(2) of this section. In reading this Part 314, applicants of such listed products should substitute "Bureau of Biologics" for "Bureau of Drugs" wherever it appears. The products are as follows:

(i) Ingredients packaged together with containers intended for the collection, processing, or storage of blood and blood components.

(ii) Urokinase products.

(iii) Plasma volume expanders and hydroxyethyl starch for leukapheresis.

* * * * *

In accordance with Executive Order 12044, the economic effects of this regulation have been carefully analyzed and it has been determined that it does not involve a major economic consequence 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.

Effective date. This regulation is effective October 18, 1979.

(Secs. 505, 701(a), 52 Stat. 1052–1053 as amended, 1055 (21 U.S.C. 355, 371(a)); sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262).)

Dated: September 10, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-28732 Filed 9-17-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Order No. 852-79]

Organization of the Department of Justice; Amending the General Functions of the Criminal Division

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order reassigns responsibility for detecting, investigating, and where appropriate, taking legal action to deport or denaturalize any individual who was admitted as an alien into or became a naturalized citizen of the United States and who assisted the Nazis by persecuting any person because of race, religion, national origin, or political opinion. This responsibility, previously assigned to the Immigration and Naturalization Service, is hereby reassigned to the Criminal Division. It is unnecessary to amend the general functions of the Immigration and Naturalization Service as listed in Subpart S, because that Service will continue to have general responsibility to administer and enforce the immigration and nationality laws.

EFFECTIVE DATE: September 4, 1979.

FOR FURTHER INFORMATION CONTACT: Mark M. Richard, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice, Washington, D.C. 20530 (202–633–2657).

By virtue of the authority vested in me by 28 U.S.C. 509 and 510 and 5 U.S.C. 301, § 0.55(f) of Subpart K of Part 0 of Chapter I of Title 28, Code of Federal Regulations is revised as follows:

§ 0.55 General Functions.

* * * * *

(f) All litigation arising under the immigration and nationality laws (except Japanese renunciation proceedings, which are assigned to the Civil Division, and suits under the Tucker Act for the recovery of money covered into the Treasury on forfeited immigration bonds), and the passport and visa laws (except injunction actions against the Secretary of State to require the issuance of passports, which are within the jurisdiction of the Civil Division under § 0.45(h)), and investigations and other appropriate inquiries pursuant to all the power and authority of the Attorney General to enforce the Immigration and Nationality Act and all other laws relating to the immigration and naturalization of aliens as they relate to the individuals identified in 8 U.S.C. 1182(a)(33) and 1251(a)(19).

* * * * *

Dated: September 4, 1979.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 79-28849 Filed 9-17-79; 8:45 am]

BILLING CODE 4410-01-M

28 CFR Part 0

[Memorandum 79-1]

Organization of the Department of Justice; Appendix to Subpart H—Antitrust Division

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This memorandum delegates the authority previously granted to the Assistant Attorney General, Antitrust Division, to deny requests made under the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act, 5 U.S.C. 552a.

EFFECTIVE DATE: Date of Signature.

FOR FURTHER INFORMATION CONTACT: Leo D. Neshkes, Freedom of Information/Privacy Act Officer, Antitrust Division, Department of Justice, Washington, D.C. 20530 (202/633–2692).

Pursuant to the authority vested in me by Subpart H of Part 0 of Chapter I of Title 28, Code of Federal Regulations, I issue the following memorandum as an appendix to Subpart H of Part 0 of Chapter I of Title 28, Code of Federal Regulations:

Appendix to Subpart H

Delegation of Authority Respecting Denials of Freedom of Information and Privacy Act Requests

1. The Deputy Assistant Attorney General for Litigation, Antitrust Division, will assume the duties and responsibilities previously assigned to the Assistant Attorney General by 28 C.F.R. 16.5 (b) and (c) and 16.45(a), as amended July 1, 1977, and defined in those sections, for denying requests and obtaining statutory extensions of time under the Freedom of Information Act, 5 U.S.C. 552, *et seq.*, and the Privacy Act, 5 U.S.C. 552a, *et seq.*

2. The Deputy Assistant Attorney General for Litigation, Antitrust Division, who signs a denial or partial denial of a request for records made under the Freedom of Information Act or the Privacy Act shall be the "person responsible for the denial" within the meaning of 5 U.S.C. 552(a) and 5 U.S.C. 552a (j) and (k).

Dated: September 4, 1979.

John H. Shenefield,

Assistant Attorney General, Antitrust Division.

[FR Doc. 79-28867 Filed 9-17-79; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 0

[Memorandum 78-1]

Appendix to Subpart J—Civil Rights Division; Correction

AGENCY: Department of Justice.

ACTION: Final rule; correction.

SUMMARY: This corrects Civil Rights Division regulation 78-1, 43 FR 37686, concerning the delegation of authority to deny requests made under the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act, 5 U.S.C. 552a. The Civil Rights Division is interested in eliminating gender-specific terminology wherever it is unnecessary. This correction is needed to eliminate such gender-specific language in Memorandum 78-1, as published in the **Federal Register** on August 24, 1978.

In FR Doc. 78-23842, published in the **Federal Register** on August 24, 1978, in paragraph 1, line 5, "his" should be corrected to read "his or her." In paragraph 2, line 5, "his" should be corrected to read "his or her."

EFFECTIVE DATE: September 18, 1979.

FOR FURTHER INFORMATION CONTACT: Salliann M. Dougherty, Freedom of Information/Privacy Act Officer, Civil Rights Division, U.S. Department of Justice, Washington, D.C. 20530 (202) 633-3925.

Date: January 11, 1979.

Drew S. Days III,

Assistant Attorney General, Civil Rights Division.

[FR Doc. 79-28897 Filed 9-17-79; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 16

[AAG/A Order No. 30-79]

Production or Disclosure of Material or Information; Subpart E—Exemption of Records Systems Under the Privacy Act; Revocation of Exemptions

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: As explained in the Notice Section of today's **Federal Register**, the Criminal Division has rescinded system notices for six of its systems of records. These notices were most recently published in the Notice Section of the **Federal Register** on September 30, 1977 and had originally been published in the **Federal Register** on August 27, 1975. On that date (August 27, 1975) a rule was published in the Proposed Rules Section exempting four of these systems of records, i.e., JUSTICE/CRM-009, Narcotic and Dangerous Drug Witness Security Program File, JUSTICE/CRM-010, Organized Crime and Racketeering Information System, JUSTICE/CRM-011, Organized Crime and Racketeering Section File Check Out System, and JUSTICE/CRM-020, Requests to the Attorney General for Approval of Applications to Federal Judges for Electronic Interceptions in Narcotic and Dangerous Drug Cases, from certain provisions of the Privacy Act. Records in systems JUSTICE/CRM-010 and JUSTICE/CRM-011 have been destroyed. Records in systems JUSTICE/CRM-009 and JUSTICE/CRM-020 are being merged into other systems of records. Accordingly, certain portions of 28 CFR 16.91 are being revoked because they are unnecessary.

DATES: Revocation of the exemptions is effective September 5, 1979.

ADDRESSES: Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530 (202-633-4165).

FOR FURTHER INFORMATION CONTACT: William J. Snider (202-633-4165).

SUPPLEMENTAL INFORMATION: In order to effect the changes in 28 Code of Federal Regulations, § 16.91, required by the revocation of these exemptions, it is necessary to amend existing subsections (c), (d), (e), (f), (o) and (p), to delete existing subsections (k) and (l), and to reletter existing subsections (m) through (t) as (k) through (r), respectively of § 16.91. The amendments to subsections (c) and (d) eliminate references to JUSTICE/CRM-009; the amendments to subsections (e) and (f) eliminate references to JUSTICE/CRM-011; the deletion of subsections (k) and (l) eliminates references to JUSTICE/CRM-010; and the amendments to existing sections (o) and (p) eliminate references to JUSTICE/CRM-020.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 793-78, 28 Code of Federal Regulations, § 16.91 is hereby amended as set forth below.

Dated: September 5, 1979.

William D. Van Stavoren,

Acting Assistant Attorney General for Administration.

Section 16.91 of Title 29 of the Code of Federal Regulations is amended as follows: Paragraph (c) is revised; the introductory to paragraph (d) is revised; paragraph (e) is revised; the introductory to paragraph (f) is revised; paragraphs (k) and (l) are deleted; paragraphs (m) through (t) are relettered as (k) through (r) respectively; relettered paragraph (m), formerly paragraph (o), is revised; and the introductory to relettered paragraph (n), formerly paragraph (p), is revised.

§ 16.91 Exemption of Criminal Division Systems—Limited access, as indicated.

* * * * *

(c) The following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(j) (2) from subsection (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G), (H) and (I), (e) (5) and (8), (f) and (g) of 5 U.S.C. 552a: Criminal Division Witness Security File System of Records (JUSTICE/CRM-002). These exemptions apply to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

(d) The system of records listed under paragraph (c) of this section is exempted, for the reasons set forth, from the following provisions of 5 U.S.C. 552a:

* * * * *

(e) The following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsections (c) (3) and (4), (d), (e) (4) (G), (H) and (I), (f), and (g) of 5 U.S.C. 552a: Organized Crime and Racketeering Section, Intelligence and Special Services Unit, Information Request System of Records (JUSTICE/CRM-014). These exemptions apply to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

(f) The system of records listed under paragraph (e) of this section is exempted for the reasons set forth, from the following provisions of 5 U.S.C. 552a:

* * * * *

(m) The following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsections (c) (3) and (4), (d), (e) (2) and (3), (e) (4) (G), (H) and (I), (e) (8), (f) and (g) of 5 U.S.C. 552a: Requests to the Attorney General For Approval of Applications to Federal Judges For Electronic Interceptions System of Records (JUSTICE/CRM-019). These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

(n) The system of records listed in paragraph (m) of this section is exempted for the reasons set forth, from the following provisions of 5 U.S.C. 552a:

* * * * *

[FR Doc. 79-28964 Filed 9-17-79; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers

33 CFR Part 209

Administrative Procedures; Shipping Safety Fairways and Anchorages, Gulf of Mexico; Correction

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Correction.

SUMMARY: On 4 September 1979 (44 CFR 51586) the U.S. Army Corps of Engineers published final regulations in the Federal Register amending regulations which establish shipping safety fairways and anchorages in the Gulf of Mexico. The coordinates listed in the amended regulation contained an error in the second grouping. Latitude 29°12'18" should read 29°22'18".

EFFECTIVE DATE: September 18, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard, (202)272-0200 or write: HQDA, DAEN-CWO-N, Washington, D.C. 20314.

SUPPLEMENTARY INFORMATION: For clarity the regulations which establish the amended anchorage areas is corrected and republished in its entirety as set forth below:

§ 209.135 Shipping Safety Fairways and Anchorage Areas, Gulf of Mexico.

* * * * *

(c) The areas.

* * * * *

(11) Galveston Entrance Anchorage Areas. The areas inclosed by rhumb lines joining points at: Latitudes—29°18'10", 29°08'04", 29°03'13", 29°14'48", 29°18'10"; longitudes—94°39'16", 94°28'12", 94°36'48", 94°45'12", 94°39'16".

and rhumb lines joining points at: Latitudes—29°19'23", 29°22'18", 29°14'23", 29°13'24", 29°19'23"; longitudes—94°37'08", 94°32'00", 94°25'53", 94°27'33", 94°37'08".

30 Stat. 1151; 33 U.S.C. 403 & 43 U.S.C. 1333(e))

Dated: September 12, 1979.

Richard Edwards,

Acting Chief, Construction-Operations Division, Directorate of Civil Works.

[FR Doc. 79-28954 Filed 9-17-79; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1321-4]

Approval and Promulgation of Implementation Plans; Georgia: 1979 Plan Revisions

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces its approval of portions of the implementation plan revisions which the Georgia Environmental Protection Division submitted pursuant to the requirements of Part D of Title I of the Clean Air Act, as amended 1977, with regard to nonattainment areas.

Other portions of the State's 1979 revisions are given conditional approval. These portions contain minor deficiencies which the State has agreed to correct by February 15, 1980. The State and EPA has agreed that this date is reasonable and appropriate. Because the date was not proposed in the May 9th Federal Register, EPA is soliciting comments on its appropriateness at this time. After receipt of the supplementary submittal, they will be the subject of another notice of proposed rulemaking. The specific portions of the Georgia implementation plan revisions that EPA proposes to take final action on are described below in detail in the General Discussion.

DATE: These actions are effective September 18, 1979.

ADDRESSES: Copies of the materials submitted by Georgia and the comments received in response to the proposal notice of May 9, 1979 (44 FR 27184) 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, NE., Atlanta, Georgia, 30308.

FOR FURTHER INFORMATION CONTACT:

Harriet Smith, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia, 30308, 404/881-3286 (FTS 257-3286).

SUPPLEMENTAL INFORMATION:

Background

In the May 9, 1979, Federal Register (44 FR 27184) EPA proposed approval of the Georgia SIP revision for the following designated nonattainment areas:

Total Suspended Particulate Matter (TSP)

A. That portion of Fulton County within the northwest section of Atlanta (primary and secondary standards).

B. That portion of Chatham County within the north central section of Savannah (primary and secondary standards).

C. That portion of the northern part of Walker County which includes Rossville (primary and secondary standards).

D. That portion of Washington County within the southern section of Sandersville (secondary standard).

Photochemical Oxidants (Ozone)

A. Atlanta area—Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Fulton, Gwinnett, Henry, Paulding and Rockdale Counties.

B. Muscogee County (Columbus)

Implementation plan revisions under Part D of the Clean Air Act Amendments (CAAA) were developed by the State for all the foregoing areas except Sandersville. These revisions were submitted for EPA's approval on January 17, 1979; additional information requested by EPA was submitted on March 9, 16, and 20, 1979. In the materials submitted, the State asserted that no violations of the secondary particulate standard have occurred in Sandersville since June 1977, and requested that the area be redesignated attainment. This request will be dealt with in a separate Federal Register notice.

Receipt of the Georgia revisions was first announced in the Federal Register of February 13, 1979 (44 FR 9424). The Georgia revisions have been reviewed by EPA in light of the CAAA of 1977, EPA regulations, and additional guidance materials. The criteria utilized in this review were detailed in the Federal Register on April 4, 1979 (44 FR 20372) and need not be repeated in detail here.

General Discussion

The Notice of Proposed Approval discussed each of the provisions of Section 172(b) of the CAAA of 1977. It was stated that EPA would review sources in the TSP nonattainment areas of Atlanta and Savannah before making a final determination that reasonably available control technology (RACT) is in place where needed. The review has been completed and based on EPA's evaluation of industrial/stationary sources; it appears that RACT has been applied to stack sources but not to all sources of fugitive emissions.

The State must, as a condition of approval of the TSP plan, by February 15, 1980:

(a) Inspect all sources which may impact the TSP areas in Atlanta and Savannah;

(b) Submit to EPA a report of their inspections describing the existing controls;

(c) Prescribe in the industries' permits, a schedule for implementing RACT.

Georgia's TSP nonattainment plans for Atlanta and Savannah are conditionally approved. If the above conditions are met, full approval will be promulgated. The State has adequate legal authority to require additional controls that may be needed on fugitive sources of particulates.

It has been determined that in order to meet the secondary standard in Atlanta and Savannah, the State will have to study and control nontraditional fugitive sources. The state is hereby granted an 18-month extension (until July 1, 1980) to submit a complete plan to show attainment of the secondary standard.

There has been no TSP air quality violation in Sandersville since June, 1977. The State has requested that EPA redesignate the area as attainment. It is the policy of EPA to designate an area as attainment only after at least two years of data with no violations have been collected.

According to information in the State submittal, violations of the primary standard in Rossville result from fugitive dust from a quarrying site and dust emissions from stockpiles and in-plant roads. The State proposes control of these emissions along with better maintenance and application of existing control devices on the quarrying operation and an asphalt plant. The TSP nonattainment plan for Rossville is approved. The State is hereby granted an 18-month extension (until July 1, 1980) to submit a plan demonstrating attainment of the secondary standard.

There were no public comments on the TSP portion of the SIP.

The State calculates that Columbus will achieve the ozone standard by early 1981 through the Federal Motor Vehicle Control Program and statewide regulations for volatile organic compounds (VOC).

There were no public comments concerning the ozone strategy for Columbus and it is approved.

The State projects that Atlanta will attain the ozone standard by late 1981 through the Federal Motor Vehicle Control Program and statewide VOC regulations. The following comment on this section was received from the National Wildlife Federation.

Comment: Georgia relied upon the most primitive and unreliable of the four modeling techniques (i.e., the rollback method) permitted by EPA in its analysis of the ozone plan for Atlanta.

Agency Response: The use of the linear rollback method for determining the level of control required to attain the national ambient standards is acceptable. While EPA recognizes the other models involve a more complex investigation of various pollutants, the rollback method is still applicable. See 44 FR 8234 (February 8, 1979), to be printed as 40 CFR 51.14(c)(iv).

The ozone strategy for Atlanta is approved.

The following discussion relates to the above mentioned VOC regulations. EPA has determined that methyl chloroform (1,1,1 trichloroethane) and trichlorotrifluoroethane (freon 113) are not photochemically reactive compounds. These VOCs, while not appreciably affecting ambient ozone levels, are potentially harmful. Methyl chloroform has been identified as mutagenic in bacterial and mammalian cell test systems, a circumstance which raises the possibility of human mutagenicity and/or carcinogenicity.

Furthermore, methyl chloroform and freon 113 both eventually migrate to the stratosphere where they are suspected of contributing to the depletion of the ozone layer. Since stratospheric ozone is the principal absorber of ultraviolet light (UV), the depletion could lead to an increase of UV penetration resulting in a worldwide increase in skin cancer.

With EPA's statement that methyl choloroform is not photochemically reactive, and its subsequent exemption, some sources, particularly existing degreasers, will be encouraged to utilize it in place of other more photochemically reactive degreasing solvents. Such substitution has already resulted in the use of methyl choloroform in amounts far exceeding that of other solvents. The use of this compound may be encouraged by exempting it in the SIP. This may further aggravate the resulting problems by increasing the emissions produced by existing primary degreasers and other sources. EPA has issued guidance to the States allowing them to exempt these compounds from control presently.

State officials and sources should be advised that there is a strong possibility of future regulatory action to control these compounds. Sources which choose to comply by substitution may well be required to install control systems as a consequence of these future regulatory actions. Georgia has indicated its intention to regulate these compounds when EPA takes final regulatory action requiring their control.

Also, EPA is in the process of proposing approval of the CO plan for Atlanta based on the State's submission of materials intended to correct the deficiencies outlined in the May 9th **Federal Register** notice.

General Comments

Atlanta Coalition on the Transportation Crisis—(ACTC)

Comment: The ACTC asserts that, contrary to the proposal notice in the **Federal Register**, the State has received public comments (from ACTC) on the SIP analysis of the air quality, health, welfare, economic, energy, and social effects of the plan . . . and of the alternatives considered.

Agency Response: The ACTC did submit comments to the State of Georgia to which the State responded. It was the opinion of the State that the comments addressed the SIP in general rather than the analysis of the air quality, health, welfare, economic, energy and social effects and the alternatives considered. The State submitted to EPA its letter responding to ACT's comments, as part of the State's summary of public comment.

Union Camp

The comments from Union Camp concern portions of the regulations dealing with fuel burning, opacity, the bubble concept, and fugitive dust. These topics are dealt with in an August 14, 1979 **Federal Register** notice (pg. 47557). In addition, Union Camp suggests relocating the sampler at Lathrop and Augusta Streets in Savannah. EPA has evaluated the sampler and found it to be consistent with NAMS siting criteria. Therefore, the agency will not suggest moving the sampler.

A number of comments were received from the National Wildlife Federation, the Atlanta Coalition on the Transportation Crisis, and the Atlanta Regional Commission concerning the carbon monoxide transportation portion of the SIP. As already noted EPA is proposing approval of the CO plan in a **Federal Register** separate notice. Those comments will be discussed in the final notice following the comment period.

Additional Comments

Comment: One commenter noted that the recent court decision of EPA's regulations for prevention of significant deterioration (PSD) affects EPA's new source review (NSR) requirements for Part D plans as well. (The decision is *Alabama Power Co. v. Costle*, 13 ERC 1225 (D.C. Cir., June 18, 1979). The court ruled that, among other things, (1) a

"source" must be defined as a single building, structure, facility, or installation, although EPA may define those terms to include an entire plant; (2) "modifications" subject to NSR include only those source changes resulting in a net increase in potential emissions from the entire source; (3) the calculation of "potential to emit" for purposes of the tonnage cut-off must be calculated on the assumption that emission control equipment will function as anticipated; and (4) PSD requirements do not apply to sources within areas designated as nonattainment, except for sources with a substantial impact on a clean area of another state. In the commenter's view, the court's ruling on the definition of "source," "modification," and "potential to emit" should apply to Part D as well as PSD programs, and the court decision precludes EPA from requiring Part D review of sources located in designated clean areas.

Response: The preamble to the Emission Offset Interpretative Ruling, as revised January 16, 1979, explains that the interpretations in the Ruling of the terms "source," "major modification," and "potential to emit," and the areas in which NSR applies, govern State plants under Part D. (44 FR 3275 col. 3 through 3276 col. 1, January 16, 1979.) In a proposed rule signed by the Administrator on August 22, 1979, and published in the **Federal Register** on September 5, 1979 (44 FR 51925), EPA explained its views on how the *Alabama Power* decision affects NSR requirements for state Part D plans. As stated there, EPA agrees that the court's ruling on the definitions of "source," "modification," and "potential to emit" applies to NSR under Part D. EPA does not, however, view the court's ruling as determinative on the question of which areas are subject to Part D requirements.

As part of the proposed rules, EPA proposed regulations for Part D plans, to be set forth in a new section 40 CFR 51.18(j). EPA also proposed, for now, to approve a SIP revision if it satisfies either existing EPA requirements, or the proposed regulations. To the extent EPA's final regulations are more stringent than existing requirements, EPA proposed that States have additional time to submit revisions after EPA promulgates final regulations. EPA also proposed to approve state-submitted relaxations so long as the revised SIP meets all proposed, or final, EPA requirements. Since the Georgia NSR program satisfies existing requirements for Part D, it is now being approved.

Comment: A national environmental group commented that the requirements for an adequate permit fee system (section 110(a)(2)(K) of the Act), and proper composition of State boards (sections 110(a)(2)(F)(vi) and 128 of the Act) must be satisfied to assure that permit programs for nonattainment areas are implemented successfully. Therefore, while expressing support for the concept of conditional approval, the commenters argued that EPA must secure a State commitment to satisfy the permit fee and State board requirements before conditionally approving a plan under Part D. In those States that fail to correct the omission within the required time, the commenters urged that restrictions on construction under section 110(a)(2)(I) of the Act must apply.

Response: To be fully approved under section 110(a)(2) of the Act, a State plan must satisfy the requirements for State boards and permit fees for all areas, including nonattainment areas. Several States have adopted provisions satisfying these requirements, and EPA is working with other States to assist them to develop the required programs. However, EPA does not believe these programs are needed to satisfy the requirements of Part D. Congress placed neither the permit fee nor the State board provision in Part D. While legislative history states that these provisions should apply in nonattainment areas, there is no legislative history indicating that they should be treated as Part D requirements. Therefore, EPA does not believe that failure to satisfy these requirements is grounds for conditional approval under Part D, or for application of the construction restriction under section 110(a)(2)(T) of the Act.

Attainment Dates

Under Section 110(a)(2)(A) of the Act, State Implementation Plans adopted in the early 1970s were to have attained ambient standards in most Regions by 1975, with some exceptions until 1977. Under Section 172(a), plan revisions for areas that still violate the standards are to provide for attainment as expeditiously as practicable but for primary standards no later than the end of 1982, or the end of 1987 for very difficult ozone or carbon monoxide problems.

For each nonattainment area where a revised plan provides for attainment by the deadlines under Section 172(a) of the Act, the new deadlines are added to the chart of attainment dates in 40 CFR Part 52. However, the earlier deadlines under Section 110(a)(2)(A) found in the 1978 edition of the Code of Federal Regulations will still limit extensions and variances from compliance schedule dates.

Congress established new deadlines under section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. If these new deadlines were permitted to supersede the deadlines established prior to the 1977 Amendments, sources that failed to comply with pre-1977 plan requirements by the earlier deadlines would improperly receive more time to comply with those requirements. Congress, however, intended that the new deadlines apply only to new, additional control requirements and not to earlier requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under part D.
>
> (123 Cong. Rec. H 11958, daily ed. November 1, 1977)

To implement fully Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. Such variances would impermissibly relax existing requirements beyond the applicable section 110(a)(2)(A) attainment date under the plan. Therefore, for requirements adopted before the 1977 Amendments, EPA will not approve a compliance date extension beyond pre-existing 110(a)(2)(A) attainment dates, even though a section 172 plan revision with a later attainment date has been approved.

However, in certain exceptional circumstances, extensions beyond a pre-existing attainment date are permitted. For example, if a section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations, the pre-existing requirements and deadlines may be

revised if a state makes a case-by-case demonstration that a relaxation or revocation is appropriate. In addition, an extension may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.[1]

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: September 10, 1979.

Douglas M. Costle,

Administrator.

This notice incorporates by reference provisions approved by the Director of the **Federal Register** on May 18, 1972. A copy of the incorporated material is on file in the Federal Register Library.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart L—Georgia

1. In § 52.570, paragraph (c) is amended by adding subparagraph (17) as follows:

§ 52.570 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(17) 1979 implementation plan revisions for nonattainment areas, submitted on January 17 and March 9, 16, and 20, 1979, by the Georgia Department of Natural Resources. (No action is taken on the following portions of the revisions: CO plan for Atlanta and TSP plan for Sandersville. Conditional approval is given to the following portions of the revisions: TSP plans for Atlanta and Savannah.)

2. Section 52.572 is revised to read as follows:

§ 52.572 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Georgia's plans for the attainment and maintenance of the national standards under section 110 of the Clean Air Act. Furthermore, the Administrator finds the plans satisfy all requirements of Part D, Title I, of the Clean Air Act as amended in 1977, except as noted below.

3. A new § 52.573 is added as follows:

§ 52.573 Control strategy: particulate matter.

Part D, conditional approval. The control strategies submitted pursuant to Part D of Title I for the Atlanta and Savannah TSP nonattainment areas are approved on condition that the State accomplish the following by November 1, 1979:

(a) Inspect all sources which may impact the TSP areas in Atlanta and Savannah;

(b) Submit to EPA a report of their inspections describing the existing controls;

(c) Prescribe a schedule for implementing RACT where needed in the industries' permit.

4. Section 52.575 is revised to read as follows:

§ 52.575 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. The dates reflect the information presented in Georgia's plan.

5. A new § 52.577 is added as follows:

§ 52.577 Extensions.

The Administrator hereby extends for 18 months (until July 1, 1980) the statutory timetable for submission of Georgia's plans for attainment and maintenance of the secondary standards for particulate matter in the Atlanta and Savannah areas (40 CFR 81.311).

BILLING CODE 6560-01-M

[1] *See* General Preamble for Proposed Rulemaking, 44 Fed. Reg. 20373–74 (April 4, 1979).

Air Quality Control Region and Nonattainment Area	Pollutant						
	TSP		SO_2		NO_2	CO	O_3
	Primary	Secondary	Primary	Secondary			
Augusta (Georgia)-Aiken (South Carolina Interstate)	c	c	a	c	b	b	b
Metropolitan Atlanta Intrastate							
a. Atlanta nonattainment areas+	d	f	c	c	b	g	d
b. Rest of AQCR	c	c	c	c	b	b	b
Chattanooga Interstate							
a. Rossville+	d	f	a	c	b	b	b
b. Rest of AQCR	c	c	a	c	b	b	b
Columbus (Georgia)-Phenix City (Alabama) Interstate							
a. Muscogee County	c	c	b	b	b	b	d
b. Rest of AQCR	c	c	b	b	b	b	b
Central Georgia Intrastate	c	c	c	c	b	b	b
Jacksonville (Florida) Brunswick (Georgia) Interstate	c	c	a	c	b	b	b
Northeast Georgia Intrastate	a	c	b	b	b	b	b
Savannah (Georgia)-Beaufort (South Carolina) Interstate							
a. Savannah+	d	f	c	c	b	b	b
b. Rest of AQCR	c	c	c	c	b	b	b
Southwest Georgia Intrastate	a	c	a	c	b	b	b

+For more precise delineation, see §81.311 of this chapter.

NOTE: Dates or footnotes which are italicized are prescribed by the Administrator because the plan did not provide a specific date or the date provided was not acceptable.

a Air quality levels presently below primary standards or area is unclassifiable
b Air quality levels presently below secondary standards or area is unclassifiable
c July, 1975
d December 31, 1982
e December 31, 1987
f 18-month extension granted
g To be determined at a later date

[FR Doc. 79-28952 Filed 9-17-79; 8:45 am]
BILLING CODE 6560-01-C

40 CFR Part 62

(FRL 1314-3)

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Negative Declarations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Regulations promulgated under the provisions of Section 111(d) of the Clean Air Act require states to submit to EPA plans to control emissions for designated facilities and pollutants. Section 62.06 of 40 CFR Part 62 provides that when no such facilities exist within a state's boundaries, a letter of "negative declaration" may be submitted in lieu of a control plan. EPA is announcing final approval of negative declarations of fluoride emissions from phosphate fertilizer plants submitted by the states by Connecticut, Maine, Massachusetts, New Hamsphire, Rhode Island and Vermont, and negative declarations for sulfuric acid mist emissions from sulfuric acid production units for the states of Connecticut, New Hampshire, Rhode Island and Vermont.

EFFECTIVE DATE: These regulations shall become effective September 18, 1979.

FOR FURTHER INFORMATION CONTACT: John Courcier, Environmental Protection Agency, Air Branch, Region I, J.F.K. Federal Building, Boston, MA 02203 (617) 223-4448.

SUPPLEMENTARY INFORMATION: Section 111(d) of the Clean Air Act as amended, and 40 CFR Part 62 requires states to submit to EPA plans to control emissions for designated facilities and pollutants for which standards of performance for new sources have been established under Section 111(b) of the Act. Section 62.06 of 40 CFR Part 62 provides that when no such designated facility exists within a state it may submit a letter certifying that such is the case. The negative declarations are in lieu of a plan.

On May 9, 1979 EPA published in the **Federal Register** (44 FR 27189) a notice of proposed rulemaking for approval of negative declarations of fluoride emissions which were submitted by the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont and negative declarations for sulfuric acid mist emissions from sulfuric acid production units for the states of Connecticut, Massachusetts, New Hampshire, Rhode Island, and Vermont.

Interested parties were given a 30-day comment period regarding the proposed negative declarations.

No public comments were received, and the proposed negative declarations are hereby adopted without change and are set forth below. This action is being made effective immediately since no source is affected.

(Sec. 111 and 301(a), Clean Air Act as amended (42 U.S.C. 7413 and 7601))

Dated: September 10, 1979.

Douglas M. Costle,

Administrator.

Part 62 of Chapter I, Subchapter C, Title 40 of the Code of Federal Regulations is amended by adding new Subparts H, U, W, EE, OO, and UU as follows:

Subpart H—Connecticut

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.1600 Identification of plan—Negative declaration.

The State Department of Environmental Protection submitted on November 30, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

Sulfuric Acid Mist Emissions From Sulfuric Acid Production Units

§ 62.1625 Identification of plan—Negative declaration.

The State Department of Environmental Protection submitted on November 30, 1977, a letter certifying that there are no existing sulfuric acid plants in the state subject to Part 60, Subpart B of this chapter.

* * * * *

Subpart U—Maine

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.4850 Identification of plan—Negative declaration.

The State Department of Environmental Protection submitted on April 19, 1978, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

* * * * *

Subpart W—Massachusetts

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.5350 Identification of plan—Negative declaration.

The State Department of Environmental Quality Engineering submitted on April 12, 1978, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

* * * * *

Subpart EE—New Hampshire

Fluoride Emissions From Phosphate Fertilizer Plants.

§ 62.7350 Identification of plan—Negative declaration.

The State Air Pollution Control Agency submitted on November 29, 1978, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

Sulfuric Acid Mist Emissions From Sulfuric Acid Production Units

§ 62.7375 Identification of plan—Negative declaration.

The State Air Pollution Control Agency submitted on November 29, 1978, a letter certifying that there are no existing sulfuric acid plants in the state subject to Part 60, Subpart B of this chapter.

* * * * *

Subpart OO—Rhode Island

Fluoride Emissions From Phosphate Fertilizer Plants.

§ 62.9850 Identification of plan—Negative declaration.

The State Department of Environmental Management submitted on November 14, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

Sulfuric Acid Mist Emissions From Sulfuric Acid Production Units

§ 62.9875 Identification of plan—Negative declaration.

The State Department of Environmental Management submitted on November 14, 1977, a letter certifying that there are no existing sulfuric acid plants in the state subject to Part 60, Subpart B of this chapter.

* * * * *

Subpart UU—Vermont

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.11350 Identification of plan—Negative declaration.

The State Agency of Environmental Conservation submitted on April 11, 1978, a letter certifying that there are no existing phosphate fertilizer plants in

the state subject to Part 60, Subpart B of this chapter.

Sulfuric Acid Mist Emissions From Sulfuric Acid Production Units

§ 62.11375 Identification of plan—Negative declaration.

The State Agency of Environmental Conservation submitted on April 11, 1978, a letter certifying that there are no existing sulfuric acid plants in the state subject to Part 60, Subpart B of this chapter.

[FR Doc. 79-28947 Filed 9-17-79; 8:45 am]
BILLING CODE 6560-01-M

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40 FR Part 62

[FRL 1322-1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Louisiana Plan for Controlling Sulfuric Acid Mist

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves, with certain exceptions, Louisiana's plan for controlling sulfuric acid mist from existing sulfuric acid production facilities. Louisiana's plan was submitted in response to publication of emission control guidelines by the Administrator under section 111(d) of the Clean Air Act. The plan satisfies, in part, EPA's requirement for development, adoption, and submittal of a plan to control sulfuric acid mist.

DATES: This rulemaking is effective on October 18, 1979.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Environmental Protection Agency, Region 6, Air Program Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2742.

SUPPLEMENTARY INFORMATION: On July 18, 1978, the Governor of Louisiana, after adequate notice and public hearing submitted the State's plan for controlling sulfuric acid mist from existing sulfuric acid production facilities. The results of EPA's review of the plan were published in the **Federal Register** on March 28, 1979, as a proposed approval/disapproval action. Interested persons were invited to submit comments within 30 days on EPA's proposed action. No comments were received.

Current Action

The plan is being disapproved with respect to compliance test methods and procedures since it does not meet the requirements of 40 CFR 60.24(b)(2). The plan is being disapproved with respect to emission inventories since it does not meet the requirements of 40 CFR 60.25(a). The plan is also deficient with respect to requirements for disclosure of emission data under 40 CFR 60.25(c) and 60.26(a). Provisions are being promulgated by EPA to correct the regulation deficiency for emission data disclosure. The remainder of the plan is being approved.

A detailed discussion of the actions above was provided in EPA's proposed rulemaking of March 28, 1979. That discussion will not be repeated here since the actions are being promulgated as proposed.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order. Under EPA's final report implementing Executive Order 12044, approval of a Section 111(d) plan is not a significant regulation for the purposes of the Order. 44 FR 30988, 30990 (May 29, 1979).

This rulemaking is issued under the authority of Section 111(d) of the Clean Air Act, as amended, 42 U.S.C. 7411(d).

Dated: September 10, 1979.

Douglas M. Costle,

Administrator.

Part 62 of chapter I, title 40 of the Code of Federal Regulations is amended by adding a new subpart T—Louisiana, consisting of §§ 62.4620–62.4623 to read as follows:

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Subpart T—Louisiana

Sulfuric Acid Mist From Existing Sulfuric Acid Plants

Sec.

62.4620 Identification of plan.
62.4621 Emission standards and compliance schedules.
62.4622 Emission inventories, source surveillance, reports.
62.4623 Legal authority.
62.4624–62.4639 [Reserved]

Authority: Section 111(d) of the Clean Air Act, as amended, 42 U.S.C. 7411(d).

Subpart T—Louisiana

Sulfuric Acid Mist From Existing Sulfuric Acid Plants

§ 62.4620 Identification of plan.

(a) Title of plan: "Control of Sulfuric Acid Mist from Existing Sulfuric Acid Production Units."

(b) The plan was officially submitted on July 18, 1978.

(c) Identification of sources: The plan includes the following sulfuric acid plants:

(1) Agrico Chemical Company in St. James Parish.

(2) Allied Chemical Corporation in Ascension and Iberville Parishes.

(3) Beker Industries in St. Charles Parish.

(4) Cities Services Oil Company in Calcasieu Parish.

(5) E. I. du Pont de Nemours & Company, Inc. in Ascension Parish.

(6) Freeport Chemical Company in St. James Parish.

(7) Freeport Chemical Company in Plaquemines Parish.

(8) Olin Corporation in Caddo Parish.

(9) Stauffer Chemical Company in East Baton Rouge Parish.

§ 62.4621 Emission standards and compliance schedules.

(a) The requirements of § 60.24(b)(2) of this chapter are not met since the test methods and procedures for determining compliance with the sulfuric acid mist emission standards are not specified.

(b) Emissions from sulfuric acid plants must be measured by the methods in Appendix A to Part 60, or by equivalent or alternative methods as defined in § 60.2 (t) and (u) respectively.

§ 62.4622 Emission inventories, source surveillance, reports.

(a) The requirements of § 60.25(a) of this chapter are not met since the emission inventories do not provide information as specified in Appendix D to Part 60.

(b) The requirements of § 60.25(c) of this chapter are not met since the plan does not provide for the disclosure of emission data, as correlated with applicable emission standards, to the general public.

(c) *Regulation for Public Availability of Emission Data.* (1) Any person who cannot obtain emission data from the agency responsible for making emission data available to the public, as specified in the applicable plan, concerning emissions from any souce subject to emission limitations which are part of the approved plan may request that the appropriate Regional Administrator obtain and make public such data. Within 30 days after receipt of any such written request, the Regional Administrator shall require the owner or operator of any such source to submit information within 30 days on the nature and amounts of emissions from such source and any other information as may be deemed necessary by the Regional Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures that are part of the applicable plan.

(2) Commencing after the initial notification by the Regional Administrator pursuant to paragraph (c)(1) of this section, the owner or operator of the source shall maintain records of the nature and amounts of emissions from such source and any other information as may be deemed necessary by the Regional Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures that are part of the plan. The information recorded shall be summarized and reported to the Regional Administrator, on forms furnished by the Regional Administrator, and shall be submitted within 45 days after the end of the reporting period. Reporting periods are January 1–June 30 and July 1–December 31.

(3) Information recorded by the owner or operator and copies of this summarizing report submitted to the Regional Administrator shall be retained by the owner or operator for 2 years after the date on which the pertinent report is submitted.

(4) Emission data obtained from owners or operators of stationary sources will be correlated with applicable emission limitations and other control measures that are part of the applicable plan and will be available at the appropriate regional office and at other locations in the State designated by the Regional Administrator.

§ 62.4623 Legal authority.

(a) The requirements of § 60.26(a) of this chapter are not met since the plan does not provide adequate legal authority for the State to make emission data, as correlated with applicable emissions standards, available to the general public.

§§ 62.4624–62.4639 [Reserved]

[FR Doc. 79–28949 Filed 9–17–79; 8:45 am]
BILLING CODE 6560–01–M

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40 CFR Part 65

[1316–5]

Delayed Compliance Order for B. F. Goodrich Co.

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 B. F. Goodrich Company. The Order requires the Company to bring air emissions from its coal-fired steam generating boiler at Akron, Ohio into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). B. F. Goodrich Company'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 September 18, 1979.

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

SUPPLEMENTARY INFORMATION: On June 19, 1979 the Regional Administrator of U.S. EPA's Region V Office published in the **Federal Register** (44 FR 35277) a notice setting out the provisions of a proposed State Delayed Compliance Order for B. F. Goodrich Company. 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 approved to B. F. Goodrich Company 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 B. F. Goodrich Company on a schedule to bring its coal-fired steam generating boiler at Akron, Ohio 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. B. F. Goodrich Company 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 B. F. Goodrich Company to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by B. F. Goodrich Company will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated.

If the Administrator determines that B. F. Goodrich Company 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 September 18, 1979, because of the need to immediately place B. F. Goodrich Company on a schedule for compliance with the Ohio State Implementation Plan.

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

Dated: September 10, 1979.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Chapter I 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 § 65.401.

§ 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
*	*	*	*	*	*
B. F. Goodrich Co	Akron, Ohio	None	6/19/79..	OAC 3745–17–07, OAC 3745–17–10.	7/1/79
*	*	*	*	*	*

[FR Doc. 79–28945 Filed 9–17–79; 8:45 am]
BILLING CODE 6560–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[FRL 1316-7]

Delayed Compliance Order for Fox Paper, Inc.

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 Fox Paper, Inc. The Order requires the Company to bring air emissions from its coal-fired boilers at Lockland, Ohio into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Fox Paper, Inc.'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.

DATE: This rule takes effect September 18, 1979.

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

SUPPLEMENTARY INFORMATION: On June 22, 1979 the Regional Administrator of U.S. EPA's Region V Office published in the **Federal Register** (44 FR 35275) a notice setting out the provisions of a proposed State Delayed Compliance Order for Fox Paper, Inc. 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 approved to Fox Paper, Inc. 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 Fox Paper, Inc. on a schedule to bring its two coal-fired boilers at Lockland, Ohio 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. Fox Paper, Inc. 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 Fox Paper, Inc. to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by Fox Paper, Inc. will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Fox Paper, Inc. 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 September 18, 1979, because of the need to immediately place Fox Paper, Inc. on a schedule for compliance with the Ohio State Implementation Plan.

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

Dated: September 10, 1979.

Douglas M. Costle,

Administrator.

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

By adding the following entry to the table in § 65.401:

§ 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 which are necessary for approval to the Order under Section 113(d) of the Act.

Source	Location	Order No.	Date of FR report	SIP regulation involved	Final compliance date
* * *	*	*	*	*	*
Fox Paper, Inc	Lockland, Ohio	None	6/19/79	OAC 3745-17-07, OAC 3745-17-10.	7/1/79
* * *	*	*	*	*	*

[FR Doc. 79-28943 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1316-6]

Delayed Compliance Order for Steel Abrasives, Inc.

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 Steel Abrasives, Inc. The Order requires the Company to bring air emissions from its iron melting cupola with tapping and cooling sections at Fairfield, Ohio into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Steel Abrasives, Inc.'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 September 18, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States 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 32255) a notice setting out the provisions of a proposed State Delayed Compliance Order for Steel Abrasives, Inc. 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 approved to Steel Abrasives, Inc. 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 Steel Abrasives, Inc. on a schedule to bring its iron cupola with tapping and cooling sections at Fairfield, Ohio into compliance as expeditiously as practicable with Regulations OAC 3745–17–07 and OAC 3745–17–11, a part of the federally approved Ohio State Implemenation Plan. Steel Abrasives, Inc. 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 Steel Abrasives, Inc. to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by Steel Abrasives, Inc. will preclude Federal enforcement action under section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Steel Abrasives, Inc. 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 Steel Abrasives, Inc. on a schedule for compliance with the Ohio State Implementation Plan.

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

Dated: September 10, 1979.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Chapter I 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:

§ 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 request	SIP regulation involved	Final compliance date
* * *	*	*	*	*	*
Steel Abrasives, Inc.	Fairfield, Ohio	None	6/5/79	OAC 3745-17-07, OAC 3745-17-11.	7/1/79
* * *	*	*	*	*	*

[FR Doc. 79-28944 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1314-7]

Disapproval of a Delayed Compliance Order Issued by the North Carolina Environmental Management Commission to Carolina Power and Light Co.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby disapproves a Delayed Compliance Order issued by the North Carolina Environmental Management Commission to Carolina Power and Light Company (CP&L). The Order requires CP&L to bring air emissions from its Roxboro Unit 3 at Roxboro, North Carolina, into compliance with certain regulations contained in the federally-approved North Carolina State Implementation Plan (SIP). However, the Order did not require a surety to be posted as required under Section 113(d)(3) of the Clean Air Act as amended.

DATES: This rule takes effect on September 18, 1979.

ADDRESSES: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior **Federal Register** notice of receipt of the Order are available for public inspection and copying during normal business hours at: U.S. Environmental Protection Agency, Region IV, Air Enforcement Branch, 345 Courtland Street, NE., Atlanta, Georgia 30308.

FOR FURTHER INFORMATION CONTACT: Floyd Ledbetter, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308, Telephone Number: (404) 881–4298.

SUPPLEMENTARY INFORMATION: On May 14, 1979, the Regional Administrator of EPA's Region IV Office published in the **Federal Register**, Vol. 44 page 28010, a notice of receipt of a delayed compliance order issued by the North Carolina Environmental Management Commission to CP&L. The notice asked for public comments by June, 13, 1979, after date of above **Federal Register** publication on EPA's proposed approval/disapproval of the Order. Comments were received in response to the proposal notice of receipt. These comments asserted that the Section 113(d)(3) provision requiring the posting of a surety was inapplicable to this order.

For this type order, i.e., where the method of compliance in the DCO

contemplates shutdown and the source intends to recommence operation in compliance at a later date, the order must still satisfy the requirements of Section 113(d)(3) including compliance as expeditiously as practicable and posting of a surety, unless the source will resume operations in demonstrated compliance with the SIP within the period covered by the delayed compliance order. When increments of progress would extend beyond the period covered by the delayed compliance order, (e.g., beyond July 1, 1979) surety is required because the post-order increments would not be enforceable under the Act and thus could not assure source compliance with the SIP upon resumption of operations. For a schedule extending past July 1, 1979, to be enforceable, it must be embodied in a judicial decree. Additional comments addressed the timing of the EPA review and its appearance of not being expeditious. Region IV files indicate that the State of North Carolina was kept abreast of the review and made aware of agency guidance by telephone and by written correspondence in January 1979. The state's response was received in March 1979 at which time Region IV began preparation of the formal approval/disapproval proceedings.

Therefore, the delayed compliance order issued to CP&L, Roxboro Unit 3 is disapproved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). EPA has reviewed the Order and has the following specific objections to the Order:

The Special Order by Consent, No. AQ-73-113R, lacks provision for a surety or bond as required by Section 113(d)(3) of the Clean Air Act as amended August 7, 1977.

Because of the Administrator's disapproval, the Order is not effective under Section 113(d) of the Clean Air Act.

EPA has determined that its disapproval of the Order shall be effective September 18, 1979.
(42 U.S.C. 7413(d), 7601.)

Dated: September 10, 1979.

Douglas M. Costle,
Administrator.

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

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in

§ 65.382 EPA disapproval of State delayed compliance orders.

* * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
*	*	*	*	*	*
Carolina Power and Light Co., Roxboro Unit 3.	Roxboro, Person County, N.C.	DCO-78-43.....	5/14/79..	15 NCAC 2D .0503 and .0521.	7/1/79
	*	*	*	*	

[FR Doc. 79-28946 Filed 9-17-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 81

[FRL 1305-7]

Section 107(d) Designations of Particulate Matter Nonattainment Areas; Clarification of Charts

Correction

FR Doc. 79-26615 appearing at page 50098 in the issue for Monday, August 27, 1979, inadvertently appeared in the Notices Section of the Federal Register. It should have appeared in the Rules and Regulations Section.
BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 83

[Docket No. 21089]

Staying the Effective Date of Rules Requiring a Radiotelephone Receiver and a Listening Watch on 2182 kHz

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: A stay in the effective date of the Commission Rules requiring a radiotelephone receiver on compulsorily fitted radiotelegraph vessels is granted. Similar receiver requirements will be required to implement the recently approved 1974 Safety of Life at Sea Convention and therefore it is in the public interest to treat these regulations simultaneously.

EFFECTIVE DATE: Stayed pending a date to be specified in the forthcoming proceedings implementing the 1974 SOLAS Convention.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert McIntyre, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Order

Adopted: September 11, 1979.

Released: September 13, 1979.

In the matter of staying the effective date of rules adopted in Docket 21089 requiring a radiotelephone receiver and a listening watch on 2182 kHz.

1. The Commission has been informed that the 1974 Safety of Life at Sea Convention (SOLAS), will come into force on May 25, 1980. There are requirements in the 1974 SOLAS Convention which are interrelated with and partially supersede action the Commission has taken in the Report and Order in Docket 21089.[1] Accordingly, we reconsider, on our own motion, certain requirements set out in the Report and Order.

Background

2. The Report and Order in Docket 21089 amended Part 83 of the rules to implement an Inter-Governmental Maritime Consultative Organization's [2] (IMCO) Resolution A.335 pertaining to the 1960 Safety of Life at Sea Convention and to treat certain other related safety matters.

3. The IMCO Resolution addressed four recommendations associated with improving the effectiveness of Chapter IV, "Radiotelegraphy and Radiotelephony," of the 1960 SOLAS. The third recommendation of the resolution pertains to the installation of radiotelephone facilities on radiotelegraph vessels and it is this matter which is addressed in the instant proceeding. It was IMCO's intention,

[1] Docket 21089, Report and Order, adopted March 15, 1979, FCC 79-162, 44 FR 18501, March 28, 1979.

[2] The Inter-Governmental Maritime Consultative Organization (IMCO) is a specialized agency of the United Nations concerned solely with maritime affairs. The organization's main objective is to facilitate cooperation among governments on technical matters affecting the safety of life at sea. The IMCO Assembly during its ninth session on November 12, 1975, adopted Resolution A.335.

through implementation of this recommendation, to provide a common distress and safety radio system by which radiotelegraph and radiotelephone compulsorily fitted vessels could intercommunicate. Because the IMCO Resolution is designed to improve the safety of life at sea, it is important that its recommendations be put into effect as soon as possible. Accordingly, we plan to stay the effectivity of only those portions of the rules whose implementation would be more cost effective when considered in conjunction with those changes necessary to fully bring the 1974 SOLAS Convention into force.

Stay in Effectivity

4. The receiver portion of the common distress radio system of Resolution A.335 operates on 2182 kHz and is required by the rules adopted in Docket 21089 to be capable of receiving voice signals (A3 and A3H). Implementation of the 1974 SOLAS will require the receiver, used to stand the required radiotelephone watch, to be capable of receiving voice transmissions (A3 and A3H) in addition to the radiotelephone alarm signal (A2 and A2H). The receiver required by the 1974 SOLAS must also be fitted with a loudspeaker, a filtered loudspeaker and/or a device capable of automatically detecting the radiotelephone two tone alarm (radiotelephone auto alarm).

5. Consequently, since one receiver could satisfy the requirement for voice reception in Docket 21089, as well as the radiotelephone alarm signal reception required in the 1974 SOLAS Convention, we are of the opinion that it would be in the public interest to stay the effectivity of the receiver portion of the radiotelephone installation required by Docket 21089.

6. Accordingly, it is ordered, that, pursuant to § 0.331 of the Commission's rules, the radiotelephone watch on 2182 kHz in §§ 83.202 and 83.203, and the radiotelephone receiver required by § 83.445(b) are stayed pending a date to be specified in the forthcoming proceedings implementing the 1974 SOLAS Convention.

Federal Communications Commission.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[FR Doc. 79-28878 Filed 9-17-79; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. No. 1348-A]

Chicago & North Western Transportation Co. Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

September 12, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1348-A.

SUMMARY: This service order vacates Service Order No. 1348, which authorized the Chicago and North Western Transportation Co. line to operate over tracks of the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. line in South Dakota. The service order is being vacated because the emergency no longer exists.

EFFECTIVE DATE: September 14, 1979, at 11:59 p.m.

FOR FURTHER INFORMATION CONTACT:

J. Kenneth Carter (202) 275-7840.

Decided September 12, 1979.

Upon further consideration of Service Order No. 1348 (43 FR 55409 and 44 FR 29079), and good cause appearing therefor:

§ 1033.1348 [Vacated]

It is ordered: § 1033.1348 *Chicago and North Western Transportation Company authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Service Order No. 1348 is vacated effective 11:59 p.m., September 14, 1979.*

(49 U.S.C. (10304-10305 and 11121-11126).)

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, Members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Robert S. Turkington not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-28865 Filed 9-17-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 1 and 2

Definitions and Field Organization; Updating Field Organization Description

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service is publishing an administrative update of the locations of its regional and area offices. This action is taken to reflect the numerous regional office address changes that have occurred since last published on March 14, 1975 (40 FR 11874), to add the addresses and geographic jurisdictions of area offices, and to define more fully the meaning of the term "area manager." These changes are administrative and editorial in nature and are done as a matter of reader convenience in conjunction with the next revised edition (October 1, 1979) of Title 50, Code of Federal Regulations.

DATE: This rule becomes effective September 18, 1979.

FOR FURTHER INFORMATION CONTACT:

Arthur J. Ferguson, Division of Financial and Management Systems, Fish and Wildlife Service, Washington, DC 20240, 202-343-8914.

SUPPLEMENTARY INFORMATION:

Background

In 1976, the Service established nineteen area offices to supplement the regional offices. This structure was designed to move decisionmaking associated with implementing programs to the field level, to provide close cooperation and coordination between State agencies and the Service, and to provide the mechanism for the most efficient and effective use of the Service's manpower and dollar resources to do on-the-ground work in support of the Service's programs.

Since this update is purely for reader convenience, it is not a rule as contemplated in Executive Order 12044 and 43 CFR 14.2(e). Therefore, the provisions of that part do not apply and a determination of significance of this rule is not required. Further, it is the general policy of the Department of the Interior to allow time for interested parties to take part in the rulemaking process. However, this rule is entirely administrative and editorial in nature and for the benefit of the public. Therefore, notice and public procedure are unnecessary and contrary to the public interest. The primary author of

this document is Richard A. Stephan, Division of Financial and Management Systems.

PART 1—DEFINITIONS

Accordingly, 50 CFR Part 1 is amended as follows:

1. Section 1.7 is revised to read as follows:

§ 1.7 Regional director.

"Regional director" means the official in charge of a region or of the Alaska area of the U.S. Fish and Wildlife Service or the authorized representative of such official.

2. A new § 1.9 is added to read as follows:

§ 1.9 Area manager.

"Area manager" means the official in charge of an area, excluding the Alaska area, or the authorized representative of such official.

3. 50 CFR Part 2 is revised to read as follows:

PART 2—FIELD ORGANIZATION

Sec.
2.1 Regional and area offices.
2.2 Locations of regional and area offices.

Authority: 5 U.S.C. 301.

§ 2.1 Regional and area offices.

The program operations of the U.S. Fish and Wildlife Service are performed at various types of field installations, such as national fish hatcheries, national wildlife refuges, wetland management districts, animal damage control offices, and research laboratories. Generally, field installations are supervised by an area manager or the Alaska Area Director. Each area manager is responsible to the regional director who has jurisdiction over Service activities in the State(s) encompassed by the region. Unless otherwise stated for a particular matter in the regulations, all persons may secure from the Alaska Area Office, area offices, or regional offices information or make submittals or requests, as well as obtain forms and instructions as to the scope and contents of papers or reports required of the public.

§ 2.2 Locations of regional and area offices.

The geographic jurisdictions and addresses of the U.S. Fish and Wildlife regional and area offices are as follows:

(a) Portland Regional Office (Region 1—comprising the States of California, Hawaii, Idaho, Nevada, Oregon and Washington), Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland, Oregon 97232.

(1) Sacramento Area Office (California/Nevada), Room E–2740, Federal Building, 2800 Cottage Way, Sacramento, California 95825.

(2) Boise Area Office (Idaho/Oregon), 4620 Overland Road, Room 238, Boise, Idaho 83705.

(3) Olympia Area Office (Washington), 2625 Parkmont Lane, Olympia, Washington 98502.

(4) Honolulu Area Office (Hawaii), 300 Ala Moana Boulevard, Room 5302, P.O. Box 50167, Honolulu, Hawaii 96850.

(b) Albuquerque Regional Office (Region 2—comprising the States of Arizona, New Mexico, Oklahoma and Texas), 500 Gold Avenue, SW (P.O. Box 1306), Albuquerque, New Mexico 87103.

(1) Phoenix Area Office (Arizona/New Mexico), 2953 West Indian School Road, Phoenix, Arizona 85017.

(2) Austin Area Office (Oklahoma/Texas), Federal Building, Room G–121, 300 E. 8th Street, Austin, Texas 78701.

(c) Twin Cities Regional Office (Region 3—comprising the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin), Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

(1) East Lansing Area Office (Indiana/Michigan/Ohio), 202 Manly Miles Building, 1405 S. Harrison Road, East Lansing, Michigan 48823.

(2) St. Paul Area Office (Illinois/Minnesota/Wisconsin), 530 Federal Building & U.S. Courthouse, 316 N. Robert Street, St. Paul, Minnesota 55101.

(d) Atlanta Regional Office (Region 4—comprising (1) the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee and (2) Puerto Rico and the Virgin Islands), Richard B. Russell Building, 75 Spring Street, SW, Atlanta, Georgia 30303.

(1) Jacksonville Area Office (Florida/Georgia/Puerto Rico/Virgin Islands), 900 San Marco Boulevard, Jacksonville, Florida 32207.

(2) Jackson Area Office (Alabama/Arkansas/Louisiana/Mississippi), Providence Capitol Building, Suite 300, 200 E. Pascagoula Street, Jackson, Mississippi 39201.

(3) Asheville Area Office (Kentucky/North Carolina/South Carolina/Tennessee), Federal Building, Room 279, Asheville, North Carolina 28801.

(e) Boston Regional Office (Region 5—comprising (1) the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia and (2) the District of Columbia), One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

(1) Annapolis Area Office (Delaware/Maryland/Virginia/District of Columbia), 1825 Virginia Street, Annapolis, Maryland 21401.

(2) Concord Area Office (Connecticut/Maine/Massachusetts/New Hampshire/Rhode Island/Vermont), P.O. Box 1518, Concord, New Hampshire 03301.

(3) Harrisburg Area Office (New Jersey/New York/Pennsylvania/West Virginia), 100 Chestnut Street, Room 310, Harrisburg, Pennsylvania 17101.

(f) Denver Regional Office (Region 6—comprising the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming), 134 Union Boulevard (P.O. Box 25486), Denver Federal Center, Denver, Colorado 80225.

(1) Billings Area Office (Montana/Wyoming), Federal Building, Room 3035, 316 North 26th Street, Billings, Montana 59101.

(2) Bismarck Area Office (North Dakota), P.O. Box 1897, Bismarck, North Dakota 58501. (3) Kansas City Area Office (Iowa/Kansas/Missouri), Suite 106, Rockcreek Office Building, 2701 Rockcreek Parkway, North Kansas City, Missouri 64116.

(4) Pierre Area Office (Nebraska/South Dakota), P.O. Box 250, Pierre, South Dakota 57501.

(5) Salt Lake City Area Office (Colorado/Utah), Room 1311, Federal Building, 125 S. State Street, Salt Lake City, Utah 84138.

(g) Alaska Area Office (comprising the State of Alaska), 1011 E. Tudor Road, Anchorage, Alaska 99503.

(5 U.S.C. 301)

Dated: September 11, 1979.

Rolf L. Wallenstrom,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-28873 Filed 9-17-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

Republication of Endangered Plant Regulations for Codification

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule, republication for codification.

SUMMARY: The prohibitions and permit provisions concerning Endangered plants, initially published on June 24, 1977, as 50 CFR Part 17, Subpart F, §§ 17.61–17.63 (42 FR 32373–32380), were inadvertently omitted from the 1978 codification of 50 CFR. This republication will ensure codification of

these regulations in the 1979 edition of 50 CFR. No changes have been made to the regulations.

EFFECTIVE DATE: These rules became effective on July 25, 1977.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240; telephone (703) 235–2771.

SUPPLEMENTARY INFORMATION: On June 24, 1977 (42 FR 32373–32381), the Service published a final rule which, among other things, established Endangered plant prohibitions and permit provisions as 50 CFR Part 17, Subpart F, §§ 17.61–17.63. For the next two months Subpart F held two titles: "Endangered Plants" and "Critical Habitat"; and §§ 17.61 and 17.62 were jointly used for plants and two species' Critical Habitats. On August 11, 1977 (42 FR 40685–40689), the Service established a new Subpart I in Part 17, entitled "Interagency Cooperation". The 50 CFR location for designated Critical Habitats was moved from Subpart F to this new Subpart I, and the §§ 17.60–17.66 relating to Critical Habitat were deleted. In that final rule (42 FR 40687) the Service indicated, as follows, that the use of subpart F and its three sections for Endangered plants was to remain unchanged:

"Accordingly, 50 CFR Part 17 is hereby amended: 1. By deleting the old title of Subpart F of Part 17, "critical habitat", and all parts of Subpart F not covered by the final rulemaking of June 24, 1977 (42 FR 32373); by adding a new Table of Sections for Subpart I; and by adding a new Subpart I of Part 17 to read as follows:

Subpart F—Critical Habitat

Sec.
17.60–17.66 [Deleted]

Subpart I—Interagency Cooperation

17.90–17.94 [Reserved]
17.95 Critical Habitat—fish and wildlife.
17.96 Critical Habitat—plants. [Reserved]"

Thus, only §§ 17.60, and 17.64–17.66 were deleted totally.

On September 22 1977 (42 FR 47840–47845), the Service published several corrections to the August 11, 1977 final rule. In addition, it repeated that Subpart F as relating to Critical Habitat, with its §§ 17.60–17.66, was deleted. Unfortunately, it did not repeat the sentence regarding continued use of Subpart F as relating to Endangered plants, with its §§ 17.61–17.63. As a result of the complicated sequence of events regarding dual usage of Subpart F, the usage of §§ 17.61–17.63 for Endangered plants was inadvertently dropped from the annual codification of 50 CFR. This republication is to ensure the codification of Subpart F, §§ 17.61–17.63 (Endangered plant prohibitions and permit provisions) in the October 1, 1979 revision of 50 CFR. The text of the three sections is reprinted to assist computer printing of 50 CFR, and for reader convenience. No changes have been made to the rules published on June 24, 1977.

As provided in 43 FR 58298–58299 (1977) (to be codified in 43 CFR 14.5(b)), it is the policy of the Department of the Interior to allow the public the opportunity to participate in the rulemaking process, and to invoke the exception to notice and proposed rulemaking procedure only when it is determined that notice and comment are impracticable, unnecessary, or contrary to the public interest. The present rule deals with the rules published as 50 CFR 17.61–17.63 on June 24, 1977, which were developed under proposed and final rulemaking procedures. As was indicated above, it serves merely to ensure codification of the Endangered plant prohibitions and permit provisions which became effective on July 25, 1977. It makes no changes in §§ 17.61–17.63. Accordingly, the Service has determined that notice and proposed rulemaking procedures are unnecessary.

For the reasons cited in the preceding paragraph, it has also been determined by the Service that there exists "good cause" within the meaning of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, to make this rule effective upon publication. The Secretary has determined that this is not a significant rule and therefore does not require a regulatory analysis under Executive Order 12044 and the regulations at 43 CFR Part 14. This rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884).

The primary authors of this document are E. LaVerne Smith and Bruce MacBryde, Office of Endangered Species (703/235–1975), in consultation with James E. Pinkerton, Division of Financial and Management Systems.

Regulations Promulgation

Accordingly, 50 CFR Part 17, Subpart F, including the table of sections for that subpart, is republished below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Sec.

* * * * *

Subpart F—Endangered Plants

17.61 Prohibitions.
17.62 Permits for scientific purposes or for the enhancement of propagation or survival.
17.63 Economic hardship permits.
17.64–17.69 [Reserved]

* * * * *

Authority.—Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884).

Subpart F—Endangered Plants

Editor's Note: The regulations in subpart F were originally published on June 24, 1977 (42 FR 32373–32381) and have been in effect since July 25, 1977. In 1979 they were republished unchanged.

§ 17.61 Prohibitions.

(a) Except as provided in a permit issued pursuant to § 17.62 or § 17.63, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed, any of the acts described in paragraphs (b) through (d) of this section in regard to any Endangered plant.

(b) *Import or export.* It is unlawful to import or to export any Endangered plant. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, an endangered plant.

(d) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered plant.

(2) An advertisement for the sale of any endangered plant which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the Service, shall not be considered an offer for sale within the meaning of this subsection.

§ 17.62 Permits for scientific purposes or for the enhancement of propagation or survival.

Upon receipt of a complete application the Director may issue a permit authorizing any activity otherwise prohibited by § 17.61, in accordance with the issuance criteria of this section, for scientific purposes or for enhancing the propagation or survival of endangered plants. (See § 17.72 for permits for threatened plants.) Such a permit may authorize a single transaction, a series of transactions, or a number of activities over a specified period of time.

(a) *Application requirements.* An application for a permit under this section must be submitted to the Director by the person who wishes to engage in the prohibited activity. The permit for activities involving interstate commerce must be obtained by the seller if the plants are derived from cultivated stock, and by the buyer if the plants are taken from the wild. The application must be submitted on an official application form (Form 3–200) provided by the Service, or must contain the general information and certification required by § 13.12(a) of this subchapter. Requirements differ for the issuance of a permit for activities dealing with plants obtained from the wild (excluding seeds), seeds and cultivated plants, or herbarium specimens. The applicant must provide in an attachment the information required below and any other information that is requested by the Director.

(1) For activities involving plants obtained from the wild (excluding seeds), provide the following information:

(i) The scientific names of the plants sought to be covered by the permit;

(ii) The estimated number of specimens sought to be covered by the permit;

(iii) The year, country, and approximate place where taking occurred or will occur;

(iv) The name and address of the institution or other facility where the plant sought to be covered by the permit will be used or maintained;

(v) A brief description of the applicant's expertise and facilities as related to the proposed activity;

(vi) A statement of the applicant's willingness to participate in a cooperative propagation program, and to maintain or contribute data relating to such efforts; and

(vii) A statement of the reasons why the applicant is justified in obtaining the permit, including:

(A) The activities sought to be authorized by the permit and the relationship of such activities to scientific purposes or enhancing the propagation or survival of the species; and

(B) The planned disposition of such plant upon termination of the activities sought to be authorized.

(2) For activities involving seeds and cultivated plants, provide the following information:

(i) The scientific names of the plants sought to be covered by the permit;

(ii) A statement of the applicant's willingness to participate in a cooperative propagation program, and to maintain or contribute data relating to the success of such efforts;

(iii) A justification of the activities sought to be authorized by the permit and the relationship of such activities to scientific purposes or enhancing the propagation or survival of the species; and

(iv) If the activities would involve seeds obtained from the wild, additional information to evaluate the effects of such taking upon the reproductive potential of the species where the taking will occur.

(3) For importation or exportation involving the non-commercial loan, exchange, or donation of herbarium or other preserved, dried, or embedded museum specimens of any endangered species between scientists or scientific institutions, provide the following information:

(i) The name and address of the institution or other facility where the plants sought to be covered by the permit will be used or maintained; and

(ii) A justification of the activities sought to be authorized by the permit and the relationship of such activities to scientific purposes or enhancing the propagation or survival of the species.

(4) If the activity sought to be authorized is with a species also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, additional requirements as indicated in § 23.15(c) of Part 23 of this subchapter must be met. For the convenience of the applicant, § 23.15(c) is repeated here:

Applications for permits or certificates under this section must be submitted to the Director by any person subject to the jurisdiction of the United States who wishes to engage in the activity. Each application must be submitted on an official application form (Form 3–200) provided by the Service, or must contain the general information and certification required by § 13.12(a) of this subchapter, and must include, as an attachment, as much of the following information as relates to the purpose for which the applicant is requesting a permit or certificate.

(1) The scientific and common names of the species (or taxa to the rank listed in Appendix I, II, or III) sought to be covered by the permit, the number of wildlife or plants, and the activity sought to be authorized (such as importing, exporting, re-exporting, etc.);

(2) A statement as to whether the wildlife or plant, at the time of application, (i) is living in the wild, (ii) is living but is not in the wild, or (iii) is dead;

(3) A description of the wildlife or plant, including (i) size, (ii) sex (if known), and (iii) type of goods, if it is a part or derivative;

(4) In the case of living wildlife or plants, (i) a description of the type, size and construction of any container the wildlife or plant will be placed in during transportation; and (ii) the arrangements for watering and otherwise caring for the wildlife or plant during transportation;

(5) The name and address of the person in a foreign country to whom the wildlife or plant is to be exported from the United States, or from whom the wildlife or plant is to be imported into the United States;

(6) The country and place where the wildlife or plant was or is to be taken from the wild;

(7) In the case of wildlife or plants listed in Appendix I to be imported into the United States, (i) a statement of the purposes and details of the activities for which the wildlife or plant is to be imported; (ii) a brief resume of the technical expertise of the applicant or other persons who will care for the wildlife or plant; (iii) the name, address and a description, including diagrams or photographs, of the facility where the wildlife or plant will be maintained; and (iv) a description of all mortalities, in the two years preceding the date of this application, involving any wildlife species covered in the application (or any species of the same genus or family) held by the applicant, including the causes and steps taken to avoid such mortalities; and

(8) Copies of documents, sworn affidavits or other evidence showing that either (i) the wildlife or plant was acquired prior to the date the Convention applied to it, or (ii) the wildlife or plant was bred in captivity or artifically propagated, or was part of or derived therefrom, or (iii) the wildlife or plant is a herbarium specimen, other preserved, dried or embedded museum specimen, or live plant material to be imported, exported or re-exported as a non-commercial loan, donation or exchange between scientists or scientific institutions.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making his decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(1) Whether the purpose for which the permit is requested will enhance the survival of the species in the wild;

(2) Whether the purpose for which the permit is requested will enhance the propagation of the species;

(3) The opinions or views of scientists or other persons or organizations having expertise concerning the plant or other matters germane to the application; and

(4) Whether the expertise, facilities, or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application.

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) If requested, the permittee shall submit to the Director a written report of the activities authorized by the permit. Such report must be postmarked by the date specified in the permit or otherwise requested by the Director.

(2) A copy of the permit or an identification label, which includes the scientific name, the permit number, and a statement that the plant is of "wild origin" or "cultivated origin" must accompany the plant or its container during the course of any activity subject to these regulations, unless the specimens meet the special conditions referred to in paragraph (c)(3) of this section.

(3) In the case of plants that are herbarium specimens, or other preserved, dried or embedded museum specimens to be imported or exported as a noncommercial loan, exchange or donation between scientists or scientific institutions, the names and addresses of the consignor and consignee must be on each package or container. A description such as "herbarium specimens" and the code letters assigned by the Service to the scientists or scientific institution must be entered on the Customs declaration form affixed to each package or container. If the specimens are of taxa also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the letters "CITES" (acronym for the Convention) also must be entered on the Customs declaration form, as indicated in § 23.15(e)(3) of Part 23 of this subchapter.

(d) *Duration of permit.* The duration of a permit issued under this section shall be designated on the face of the permit.

§ 17.63 Economic hardship permits.

Upon receipt of a complete application, the Director may issue a permit authorizing any activity otherwise prohibited by § 17.61, in accordance with Section 10(b) of the Act and the issuance criteria of this section, in order to prevent undue economic hardship. No such exemption may be granted for the importation or exportation of a species also listed in Appendix I of the Convention on International Trade in endangered Species of Wild Fauna and Flora, if the specimen would be used in a commercial activity.

(a) *Application requirements.* An application for a permit under this section must be submitted to the Director by the person allegedly suffering undue economic hardship because his desired activity is prohibited. The application must be submitted on an official application form (Form 3–200) provided by the Service, or must contain the general information and certification required by § 13.12(a) of this subchapter. It must include, as an attachment, all of the information required in § 17.62 plus the following additional information.

(1) The possible legal or economic alternatives to the activity sought to be authorized by the permit.

(2) A full statement, accompanied by copies of all relevant correspondence, showing the applicant's involvement with the plant sought to be covered by the permit (as well as his involvement with similar plants). The applicant should include information on that portion of his income derived from activities involving such plants in relation to the balance of his income during the calendar year immediately preceding either the **Federal Register** notice of review of the status of the species or proposed rulemaking to list the species as Endangered, whichever is earlier.

(3) Where applicable, proof of a contract or other binding legal obligation which:

(i) Deals specifically with the plant sought to be covered by the permit;

(ii) Became binding prior to the date of the **Federal Register** notice of review of the status of the species or proposed rulemaking to list the species as endangered, whichever is earlier; and

(iii) Will cause monetary loss of a given dollar amount if the permit sought under this section is not granted.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued for economic hardship, as defined in Section 10(b) of the Act. In making his decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(1) Whether the purpose for which the permit is requested will significantly affect the survival of the species in the wild;

(2) The economic, legal, or other alternatives or relief available to the applicant;

(3) The amount of evidence that the applicant was in fact party to a contract or other binding legal obligation which:

(i) Deals specifically with the plant sought to be covered by the permit; and

(ii) Became binding prior to the date of the **Federal Register** notice of review of the status of the species or proposed rulemaking to list the species as endangered, whichever is earlier;

(4) The severity of economic hardship which the contract or other binding legal obligation referred to in paragraph (b)(3) of this subsection would cause if the permit were denied;

(5) Where applicable, the portion of the applicant's income which would be lost if the permit were denied, and the relationship of that portion to the balance of his income.

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section may be subject to any of the following special conditions:

(1) If requested, the permittee shall submit to the Director a written report of the activities authorized by the permit. Such report must be postmarked by the date specified in the permit or otherwise requested by the Director.

(2) If requested, the permittee shall report to the Service's office designated in the permit the death, destruction or loss of all living plants covered by the permit. Such report must be postmarked by the date specified in the permit or otherwise requested by the Director.

(d) *Duration of permit.* The duration of a permit issued under this section shall be designated on the face of the permit. No permit issued under this section shall be valid for more than one year from the date of a **Federal Register** notice of review of the status of the species or proposed rulemaking to list the species as endangered, whichever is earlier.

Dated: September 12, 1979.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79-28872 Filed 9-17-79; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Hunting; Certain National Wildlife Refuges in States of Oklahoma and Texas

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Area Manager has determined that the opening to hunting of certain National Wildlife Refuges in the states of Oklahoma and Texas is compatible with the objectives for which these areas were established, will utilize a renewable national resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting season for hunting deer and wapiti (elk).

EFFECTIVE DATES: September 20, 1979 through December 31, 1979.

FOR FURTHER INFORMATION CONTACT: The Refuge Manager at the address

and/or telephone number listed below in the body of these Special Regulations.

General

Public hunting is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 32 and the following Special Regulations. Special conditions applying to individual refuges are listed on leaflets available at refuge headquarters and from the Area Manager, U.S. Fish and Wildlife Service, 300 E. 8th Street, Room G–121, Austin, Texas 78701.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that such recreational use will not interfere with the primary purpose for which the areas were established, and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Public hunting shall be in accordance with all applicable Federal and State laws and regulations subject to the following conditions:

§ 32.32 Special regulations; big game; for individual wildlife refuge area.

Oklahoma

Salt Plains National Wildlife Refuge, Route 1, Box 76, Jet, Oklahoma 73749, telephone 405–626–4794. White-tailed deer. Special conditions: (1) An archery hunt on October 20–21 and October 27–28, 1979. Thirty-two either sex permits for each two-day hunt for a total of 64 permits. A muzzle-loading rifle hunt, November 3–4, 1979. Thirty-two permits for the single two-day hunt. Limited to flintlock rifles only, forty (40) caliber or larger. A modern-gun hunt, November 17–18, November 20–21, November 24–25. Twenty-six permits for each of these two-day hunts for a total of 78 permits. Participants will be selected by the Oklahoma Department of Wildlife Conservation through its application-special permit system. (2) Permitted hunters must check in at the refuge office prior to entering the assigned hunting area and must check out at the refuge office upon leaving the area. (3) Shooting hours on the refuge will end each day at sunset. State hunting regulations will apply in all points not specifically described above.

Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Oklahoma 73460, Telephone 405–371–2402. White-tailed deer. Special conditions: (1) Public hunting of white-tailed deer is permitted in season on the Tishomingo National Wildlife Refuge except on the Refuge Headquarters area and that part of Farming Unit C east of Big Sandy Creek (East Flat). (2) The open season for archery hunting of deer will be for "either sex" on the Tishomingo Wildlife Management Unit (all zones) only and will extend from October 13, 1979 through the day just prior to the opening of the first segment of the regular 1979–80 Oklahoma goose season, but in no event extend past November 4, 1979. (3) A controlled hunt permit will not be required. (4) The Tishomingo Wildlife Management Unit will be closed to all public use except archery deer hunting during the archery deer hunt season. (5) The two-day open season for gun hunting of deer on the Tishomingo National Wildlife Refuge, including the Tishomingo Wildlife Management Unit, will be held on November 12 and 13, 1979. (6) The Tishomingo NWR, including the Tishomingo WMU, will be closed to all public use except gun deer hunting on November 12 and 13, 1979. (7) Legal game for the gun deer hunt on the Tishomingo NWR, including the Tishomingo WMU but excluding the Delta Area of the Refuge, will be antlerless deer. Legal game for the gun deer hunt on the Delta Area of the Tishomingo NWR will be "either sex". (8) Gun deer hunting on the Tishomingo NWR, including the Tishomingo WMU and the Delta Area, will be with shotguns of twenty (20) gauge or larger, firing a single rifle slug. (9) Gun deer hunting on the Tishomingo WMU, except the Delta Area but including the Tishomingo WMU, will be by permit only with forty (40) permits being issued each day for each of the two (2) areas. Permits will be awarded by public drawing conducted by the State for these "bonus deer" hunts. (10) "Bonus deer" hunters on the Tishomingo NWR, but excluding those on the Tishomingo WMU, will be assigned hunting sites (deer stands) where they must remain until they are reassigned or until they conclude their hunt. (11) Gun deer hunting on the Delta Area of the Tishomingo NWR will be by permits issued as a result of a public drawing to be held at refuge headquarters at 3:00 p.m. on November 11, 1979. This is not a "bonus hunt". For the Delta Area segment of the Refuge's gun deer hunt, fifty (50) pemits will be issued by drawing for each one-day hunt. Permits will be issued to hunters in pairs only. Applicants must be 18 years of age or older and must furnish their own boat for access to the area. Unclaimed permits and "no shows" for the Delta Area hunt will be filled at the check station on the day of the hunt on a first-come basis after 8:00 a.m. on the day of the hunt. Delta hunters will enter the hunt area from Nida Point. (12) Hunters, upon entering and leaving the hunting areas, will report at designated checking stations as may be established for the regulation of hunting activities and will furnish information pertaining to their hunt as requested.

Wichita Mountains Wildlife Refuge, RR 2, Box 448, Indiahoma, Oklahoma 73552, Telephone number 405–429–3221. Wapiti (Elk). Special Conditions: (1) Hunting days will be restricted to December 4, 5, & 6; 11, 12, & 13, (Tuesdays, Wednesdays, and Thursdays) 1979. (2) Except as provided in special condition below, the applicable portions of the Quanah-Elk Mountain Unit will be closed to all public use except elk hunting during hunt period. (3) Authorized hunters may retain approved, unloaded hunting rifles and camp overnight (in Camp Doris only) during this period when the Quanah-Elk Mountain Unit is closed to all other public use. Such camping hunters may be accompanied by, not to exceed, one camping companion who will be confined to Camp Doris or refuge headquarters during hunt period unless authorized to assist with the removal of game by the Refuge Manager or his agent. (4) Authorized hunters will comply with all official written refuge rules and regulations issued at mandatory hunter briefings. Violation of any of these rules or regulations or of any Federal or State hunting law, will terminate the hunt of the person or persons so involved.

Texas

Laguna Atascosa National Wildlife Refuge, P.O. Box 2683, Harlingen, TX 78550, Telephone 512–748–2426, White-tailed deer. Special Conditions: (1) Hunting with, or possession of firearms or crossbows is not permitted. Legal long-bows only are permitted. (2) The open season for hunting deer on the refuge is from 30 minutes before sunrise to 2:00 P.M. CST, October 19 through

October 28, 1979. (3) The bag limit is two deer either sex. (4) Target and field arrows are not permitted. (5) Hunters must check in and out each day of the hunt at the Laguna Atascosa Hunter Check Station, which will be open from 5:00 A.M. until 2:00 P.M. Permits will be issued and collected at this point. Failure to check out will result in loss of future hunting privileges. Deer must be checked out at this checkpoint. (6) Vehicles will not be permitted off designated refuge tour roads. (7) Archery equipment must be left at the check station prior to trailing wounded deer into closed areas and for entry after 2:00 P.M. (8) The use of horses or dogs is not permitted. (9) The construction of permanent blinds is not permitted. (10) Hunters under 16 years of age must be accompanied by an adult 21 years of age or older.

The provisions of this special regulation supplement the regulations which govern public hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Ernest S. Jemison,

Acting Area Manager, Austin, Texas.

[FR Doc. 79-28817 Filed 9-17-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

Gulf of Alaska Groundfish; Final Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Final regulations.

SUMMARY: Final regulations are promulgated to implement an amendment to the Fishery Management Plan (FMP) for Gulf of Alaska Groundfish establishing an optimum yield (OY), domestic annual harvest (DAH), and total allowable level of foreign fishing (TALFF) for fishes of the genus *Coryphaenoides*.

EFFECTIVE DATE: September 12, 1979.

FOR FURTHER INFORMATION CONTACT: Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION: Species of the genus *Coryphaenoides* such as rattails (grenadiers) are commonly caught in association with sablefish. The catch of rattails by foreign fishermen may exceed two-thirds of the sablefish catch. American fishermen estimate the catch of rattails to be one-third of their sablefish catch, the difference in catch rates being attributed to domestic fishermen fishing in shallower water than foreign fishermen. Since the species are of no commercial value and are routinely discarded, this magnitude of harvest was unknown when the FMP was prepared.

Regulations implementing the FMP included rattails in the "other species" category. Thus, catches of rattails could have prematurely used up the "other species" allocations causing closure of the fisheries for target species. This oversight was corrected in an errata to the implementing regulations which excluded rattails from the "other species" category (44 FR 37937, June 29, 1979).

However, since there is a surplus of rattails available for harvest by foreign nations, the North Pacific Fishery Management Council submitted an amendment creating a rattail (grenadier) category with specifications of OY, DAH, and TALFF. This amendment was approved by the Assistant Administrator for Fisheries, NOAA, on July 2, 1979, and published in the **Federal Register** on July 20, 1979 (44 FR 42738). At that time, proposed implementing regulations were published for public comment until August 31, 1979. One comment supporting the proposed regulations was received.

Because rattails are routinely taken incidentally to longline fishing, the foreign fishing regulations have also been amended to prohibit longline fishing after the OY, TALFF, or national allocations for rattails is reached.

For the convenience of the reader, table I in § 611.92(b)(1) and table I in § 672.20(a) have been reprinted in their entirety. The tables reflect amendments one through five (including this amendment). The **Federal Register** citations, respectively, are 43 FR 34825, 43 FR 47222, 43 FR 46349, 44 FR 40999, and this amendment. The tables also reflect the latest reserve releases (44 FR 52214), a correction concerning the genus *Sebastolobus* (44 FR 51801), and a correction concerning the definition of "Pacific ocean perch" which will appear simultaneously with this amendment.

The Assistant Administrator has made an initial determination that the amendment implemented by these regulations: (1) Is consistent with the National Standards and other provisions of the Act; and (2) does not constitute a significant action requiring the preparation of a regulatory analysis under Executive Order 12044. A declaration of the non-significant environmental impact of this action has been filed with the Environmental Protection Agency.

Signed in Washington, D.C., this the 12th day of September, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

(16 U.S.C. 1801 *et seq*)

Part 611—FOREIGN FISHING

A. 50 CFR Part 611 is amended as follows:

§ 611.9 [Amended]

1. Section 611.9, Appendix I B, Pacific Ocean Fishes, add under "Finfishes" the following:

"Code	Common English name	Scientific name
315	Rattails (grenadiers)	*Coryphaenoides* spp."

§ 611.29 [Amended]

2. Section 611.29(c), Table I, add under "Gulf of Alaska Groundfish" the following:

"Fishery	Species	Species code	TALFF
Gulf of Alaska Groundfish	Rattails	315	"11,868"

§ 611.22 [Amended]

3. Section 611.22(b), add the following average ex-vessel values per metric ton:

"Species	Values
Rattails	0"

§ 611.92 [Amended]

4. Section 611.92(b)(1), Table I, is amended to read:

Table 1.—*Gulf of Alaska Groundfish Fishery: TALFF and Reserve by Species and Regulatory Area for 1978/1979—Metric Tons*

[Regulatory Areas] [1]

Species	Western	Central	Eastern	Total
Pollock:				
TALFF	52,150	81,800	15,150	149,100
Reserve	50	5,400	50	5,500
Pacific cod:				
TALFF	4,800	9,950	3,050	17,800
Reserve	500	850	150	1,500
Flounders:				
TALFF	8,150	11,400	6,575	26,125

Table 1.—*Gulf of Alaska Groundfish Fishery: TALFF and Reserve by Species and Regulatory Area for 1978/1979—Metric Tons*—Continued

[Regulatory Areas] [1]

Species	Western	Central	Eastern	Total
Reserve	50	100	25	175
Pacific ocean [2] perch (POP) [2]				
TALFF	2,400	6,350	13,300	22,050
Reserve	200	1,250	400	1,850
Other rockfish: [3]				
TALFF	175	500	4,700	5,375
Reserve	25	100	100	225
Sablefish:				
TALFF	1,965	3,570	3,270	8,805
Reserve	35	130	30	195
Atka mackerel:				
TALFF	4,395	19,390	2,990	26,775
Reserve	5	10	10	25
Squid:				
TALFF	995	1,990	1,990	4,975
Reserve	5	10	10	25
Rattails:				
TALFF	3,267	7,067	1,534	11,868
Reserve	0	0	0	0
Other species: [4]				
TALFF	4,280	8,180	3,090	15,550
Reserve	20	120	10	150

[1] See figure 1 of this Section 611.92(b) for description of regulatory areas.

[2] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutians* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).

[3] The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined above.

[4] The category "other species" includes all species of fish except (A) the other fish listed in the table, and (B) shrimp, scallops, steelhead trout, pacific halibut, herring, and Continental Shelf fishery resources.

§ 611.92 [Amended]

5. 50 CFR 611.92(b)(2)(ii)(A) line 8 is amended by adding ", rattails" between the words "sablefish" and "or".

50 CFR 611.92(b)(2)(ii)(B), line 8 is amended by adding ", rattails" between the words "sablefish" and "or".

PART 672—GROUNDFISH OF THE GULF OF ALASKA

B. 50 CFR Part 672 is amended as follows:

1. Section 672.2, add the following new definition:

§ 672.2 Definitions.

* * * * *

"Rattails (grenadiers) means *Coryphaenoides* (genus) not specifically defined."

* * * * *

2. Section 672.20(a)(1), Table I is amended to read:

Table 1.—*Optimum Yield and Reserve Metric Tons*

[Regulatory Areas]

Species	Western	Central	Eastern	Total
Pollock:				
OY	57,000	95,200	16,600	168,800
Reserve	50	5,400	50	5,500
Pacific cod:				
OY	9,600	19,400	5,800	34,800
Reserve	500	850	150	1,500
Flounder:				
OY	10,400	14,700	8,400	33,500
Reserve	50	100	25	175

Table 1.—*Optimum Yield and Reserve Metric Tons*—Continued

[Regulatory Areas]

Species	Western	Central	Eastern	Total
Pacific ocean [1] perch (POP):				
OY	2,700	7,900	14,400	25,000
Reserve	200	1,250	400	1,850
Other rockfish: [2]				
OY	300	800	6,500	7,600
Reserve	25	100	100	225
Sablefish:				
OY	2,100	3,800	7,100	13,000
Reserve	35	130	30	195
Atka mackeral:				
OY	4,400	19,400	3,000	26,800
reserve	5	10	10	25
Squid:				
OY	1,000	2,000	2,000	5,000
Reserve	5	10	10	25
Rattails:				
OY	3,300	7,100	2,800	13,200
Reserve	0	0	0	0
Other species: [3]				
OY	4,400	8,600	3,200	16,200
Reserve	20	120	10	150

[1] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).

[2] The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined above.

[3] The category "other species" includes all stocks of finfish except (A) the other fish listed in the table, and (B) salmon, steelhead trout, and Pacific halibut.

[FR Doc. 79-28808 Filed 9-17-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Parts 611 and 672

Gulf of Alaska Groundfish; Correction

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Final rule (Errata).

SUMMARY: These amendments are corrections to the regulations governing foreign and domestic fishing for groundfish in the Gulf of Alaska. The amendments remove the following species of the genus *Sebastes* from the "other rockfish" category and place them in the Pacific ocean perch (*S. alutus*) category: *S. polyspinus, S. aleutianus, S. borealis,* and *S. zacentrus.*

EFFECTIVE DATE: September 12, 1979.

FOR FURTHER INFORMATION CONTACT: Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone (202) 634-7432.

SUPPLEMENTARY INFORMATION: The regulations implementing the Gulf of Alaska groundfish fishery management plan (see 43 FR 52709 for vessels of the United States; 43 FR 59321 for foreign vessels) include *Sebastes* species *S. polyspinus, S. aleutianus, S. borealis,* and *S. zacentrus* in the specifications of optimum yield (OY) and total allowable level of foreign fishing (TALFF) for the "other rockfish" category of fish—see 50 CFR 611.92(b), Table 1, and 50 CFR 672.20(a), Table 1. The National Oceanic and Atmospheric Administration (NOAA) has since discovered that the specifications of the "other rockfish" OY and TALFF in the plan (see 43 FR 17242) and the record did not include those four *Sebastes* species. The "other rockfish" OY and TALFF were based on past catches; those four species historically were recorded as Pacific ocean perch rather than "other rockfish." This correction removes *Sebastes* species *S. polyspinus, S. aleutianus, S. borealis,* and *S. zacentrus* from the "other rockfish" category and places them in the Pacific ocean perch category.

For the convenience of the reader, table 1 in section 611.92(b)(1) and table 1 in Section 672.20(2)(1) have been reprinted in their entirety. The tables reflect amendments 1–4 to the FMP (43 FR 34825, 47222, and 46349; 44 FR 40999) and the correction. The table also reflects the latest release of reserves (44 FR 52214), a correction to 44 FR 51801 concerning the genus *Sebastolobus* and Amendment 5 (appearing in the **Federal Register** issue of this date) regarding the OY for rattails.

The Assistant Administrator for Fisheries, NOAA, has determined that these regulations are not significant under Executive Order 12044, and also that a regulatory analysis is not required. The Assistant Administrator has determined that this amendment is essentially technical in nature, and will have no impact on fishery resources. The amendment alleviates an unintended restriction on fishing activities, and is not controversial. Accordingly, the advance notice and comment requirements of 5 U.S.C. 553(b) and the "cooling off" requirement of 553(d) are found to be impracticable, unnecessary or contrary to the public interest concerning this amendment.

Signed in Washington, D.C., this 12th day of September, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

Authority: 16 U.S.C. 1801 *et seq.*

§ 611.92 [Amended]

(A) 50 CFR 611.92(b), Table 1, is amended to read:

611.92(b)(1), Table 1.—*Gulf of Alaska Groundfish Fishery: TALFF and Reserve by Species and Regulatory Area for 1978–79—Metric Tons*

[Regulatory Areas] [1]

Species	Western	Central	Eastern	Total
Pollock:				
TALFF	52,150	81,800	15,150	149,100
Reserve	50	5,400	50	5,500
Pacific cod:				
TALFF	4,800	9,950	3,050	17,800

611.92(b)(1), Table 1.—*Gulf of Alaska Groundfish Fishery: TALFF and Reserve by Species and Regulatory Area for 1978–79—Metric Tons*—Continued

[Regulatory Areas] [1]

Species	Western	Central	Eastern	Total
Reserve	500	850	150	1,500
Flounders:				
TALFF	8,150	11,400	6,575	26,125
Reserve	50	100	25	175
Pacific ocean perch (POP):[2]				
TALFF	2,400	6,350	13,300	22,050
Reserve	200	1,250	400	1,850
Other rockfish:[3]				
TALFF	175	500	4,700	5,375
Reserve	25	100	100	225
Sablefish:				
TALFF	1,965	3,570	3,270	8,805
Reserve	35	130	30	195
Atka mackerel:				
TALFF	4,395	19,390	2,990	26,775
Reserve	5	10	10	25
Squid:				
TALFF	995	1,990	1,990	4,975
Reserve	5	10	10	25
Rattails:				
TALFF	3,267	7,067	1,534	11,868
Reserve	0	0	0	0
Other species:[4]				
TALFF	4,280	8,180	3,090	15,550
Reserve	20	120	10	150

[1] See figure 1 of this section 611.92(b) for description of regulatory areas.

[2] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutians* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).

[3] The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined above.

[4] The category "other species" includes all species of fish except (A) the other fish listed in the table, and (B) shrimp, scallops, steelhead trout, Pacific halibut, herring, and Continental Shelf fishery resources.

§ 672.20 [Amended]

(B) 50 CFR 672.20(a)(1), Table 1, is amended to read:

672.20(a)(1), Table 1.—*Optimum Yield and reserve Metric Tons*

[Regulatory areas]

Species	Western	Central	Eastern	Total
Pollock:				
OY	57,000	95,200	16,600	168,800
Reserve	50	5,400	50	5,500
Pacific cod:				
OY	9,600	19,400	5,800	34,800
Reserve	500	850	150	1,500
Flounder:				
OY	10,400	14,700	8,400	33,500
Reserve	50	100	25	175
Pacific ocean perch (POP)[1]				
OY	2,700	7,900	14,400	25,000
Reserve	200	1,250	400	1,850
Other rockfish:[2]				
OY	300	800	6,500	7,600
Reserve	25	100	100	225
Sablefish:				
OY	2,100	3,800	7,100	13,000
Reserve	35	130	30	195
Atka mackerel:				
OY	4,400	19,400	3,000	26,800
Reserve	5	10	10	25
Squid:				
OY	1,000	2,000	2,000	5,000
Reserve	5	10	10	25
Rattails:				
OY	3,300	7,100	2,800	13,200
Reserve	0	0	0	0
Other Species:[3]				
OY	4,400	8,600	3,200	16,200
Reserve	20	120	10	150

[1] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. Aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).

[2] The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined above.

[3] The category "other species" includes all stocks of finfish except (A) the other fish listed in the table, and (B) salmon, steelhead trout, and Pacific halibut.

[FR Doc. 79-28805 Filed 9-17-79; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 44, No. 182
Tuesday, September 18, 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 MANAGMENT

[5 CFR Part 334]

Temporary Assignment of Employees Between Federal Agencies and State, Local, and Indian Tribal Governments, Institutions of Higher Education, and Other Eligible Organizations

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: These proposed regulations would amend the Intergovernmental Personnel Act (IPA) mobility program requirements. They would authorize the Office of Personnel Management: (A) to certify the eligibility of organizations to participate in the mobility program as instrumentalities of State and local governments and as "other organizations"; and (B) to direct Federal agencies to terminate assignments or take other corrective actions when assignments are found to violate the IPA requirements.

DATE: Comment Date: Written comments will be considered if received no later than October 18, 1979.

ADDRESS: Send written comments to the Office of Personnel Management, Office of Intergovernmental Personnel Programs, Room 2306, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Jo Anner Wilson, Faculty Fellows and Personnel Mobility Division, Office of Intergovernmental Personnel Programs, Room 2306, 1900 E Street, NW., Washington, DC 20415, telephone (202) 632–5373.

Office of Personnel Management.

Beverly M. Jones

Issuance System Manager.

Accordingly, the Office of Personnel Management proposes to amend 5 CFR Part 334 as set out below:

§§ 334.103—334.107 Renumbered as §§ 334.104—334.108

(1) §§ 334.103 through 334.107 are renumbered as §§ 334.104 through 334.108, respectively.

(2) A new § 334.103 is added, to read as follows:

§ 334.103 Certification of instrumentalities or authorities of State and local governments and "other organizations".

(a) Organizations interested in participating in the mobility program as an instrumentality or authority of a State or local government or as an "other organization" as set out in this Part must have their eligibility certified by the Office of Personnel Management before they will be eligible to enter into a mobility agreement with a Federal agency.

(b) Written requests for certification should include a copy of the organization's (1) articles of incorporation; (2) bylaws; (3) Internal Revenue Service nonprofit statement; and

(4) any other information describing the organization's activities as they relate to the public management concerns of governments or universities.

(c) Requests should be mailed to the following address:

Assistant Director for Intergovernmental Personnel Programs, Office of Personnel Management, P.O. Box 14184, Washington, DC 20044.

(3) A new paragraph (d) is added to § 334.107 to read as follows:

§ 334.107 Termination of assignment.

* * * * *

(d) The Office of Personnel Management shall have the authority to direct Federal agencies to terminate assignments or take other corrective actions when assignments are found to have been made in violation of the requirements of the Intergovernmental Personnel Act and/or this Part.

(5 U.S.C. 3376; E.O. 11589, 3 CFR 557 (1971–1975).)

[FR Doc. 79–28921 Filed 9–17–79; 8:45 am]

BILLING CODE 6325–01–M

MERIT SYSTEMS PROTECTION BOARD

[5 CFR Part 432]

Federal Employees; Reduction in Grade and Removal Based on Unacceptable Performance; Request for Comments on Regulation Review

AGENCY: Merit Systems Protection Board.

ACTION: Requests for participation in oral argument.

SUMMARY: Oral arguments are scheduled to be held before the Merit Systems Protection Board on September 27, 1979 on the issue of the validity of certain regulations of the Office of Personnel Management (OPM), implementing Chapter 43 of Title 5 U.S.C. This notice requires that interested persons notify the Board of their intent to participate and sets forth certain questions than participators are requested to address.

DATE: Notices of intent to participate must be filed with the Board at the address below by September 20, 1979. Oral argument is scheduled for September 27, 1979 at 2:00 p.m.

ADDRESS: Notices of intent to participate must be filed with the Office of the Secretary to the Board, Room 220, 1717 H Street, N.W., Washington, D.C. 20419. Other documents related to the action are also available for public inspection at this address between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday. Oral argument will be held in Room 640, 1717 Pennsylvania Avenue, N.W., Washington, D.C., September 27, at 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Donald Cox, Deputy General Counsel on 202–653–7165.

SUPPLEMENTARY INFORMATION: By Order of the Board (44 FR 44857) the petition of the American Federation of Government Employees (AFGE) requesting review of interim regulations of OPM implementing Chapter 43 of Title 5 U.S.C., was granted. Subsequently, the Board expanded the scope of that hearing to include review of final regulations of OPM implementing that Chapter. Additionally, the Board requested that briefs from AFGE and OPM and comments from interested parties be submitted to the Board by September 17, 1979. The date for oral argument in the action was set for

September 27, 1979 at 2:00 p.m. (44 FR 52218).

In addition to the submissions received in response to this Order, the Board has also received requests to participate in oral agrument. Because of the importance of the issues raised in this proceeding to agencies and employees on a government-wide basis, it is the opinion of the Board that the broadest participation possible should be permitted.

Accordingly, those parties desiring to be heard at the oral argument should file with the Board a Notice of Intent to Participate. This Notice should clearly set forth the following:

(a) Name of the case;

(b) Name of the agency, association, union, etc., which will participate and the name of its representative who will appear;

(c) Whether the participation will be in support of or opposed to the regulations under review; and

(d) The amount of time desired for argument.

These Notices shall be filed with the Secretary of the Board at the above-referenced address no later than September 20, 1979. The Board will determine the amount of time to be alloted to each participant in the oral argument, depending on the number of requests received and the nature of each participant's interest, and will so notify all participants.

Participants in oral argument are requested to include the following questions among those addressed:

1. Do all violations of Chapter 43 of Title 5 U.S.C. (Performance Appraisal), constitute prohibited personnel practices by reason of 5 U.S.C. 2302(b)(11)? Would the same answer apply equally to all violations of Titles IV (Senior Executive Service) and V (Merit Pay) of the Civil Service Reform Act? In regard to these questions is it significant that prohibited personnel practices, unlike other appealable matters, are all subject to 5 U.S.C. 1208?

2. What effect should be given to the term "established" as used in 5 U.S.C. 4301(3)?

3. What effect should be given to the terms "systems" and "system" as used in 5 U.S.C. 4302?

By Order of the Board.

Ruth T. Prokop,

Chairwoman.

[FR Doc. 79-29029 Filed 9-17-79; 8:45 am]

BILLING CODE 6325-20-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 211]

Motor Gasoline Allocation; Downward Certification and Adjustments and Assignments for New Retail Outlets

Cross Reference: For a document announcing the intent to issue a Proposed Rule, see FR Doc. 79-28931 appearing in the Rules and Regulations Section of this issue.

BILLING CODE 6450-01-M

CIVIL AERONAUTICS BOARD

[14 CFR Part 312]

[PDR-56B Doc. 32602, dated September 13, 1979]

Implemention of the National Environmental Policy Act of 1969

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY; This supplemental notice allows for the filing of reply comments on the Board's proposal to revise its environmental regulation, PDR-56A, adopted July 30, 1979.

DATE: Comments by October 2, 1979. Reply Comments by October 22, 1979.

ADDRESSES: Twenty copies of comments should be sent to Docket 32602, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Comments may be examined in Room 711 at the address above as they are received. Individuals may submit their views as consumers without filing multiple copies.

FOR FURTHER INFORMATION CONTRACT: Steven Rothenberg (202) 673-5858; Laurence J. Aurbach (202) 673-5858; or Arnold G. Konheim (202) 673-6089, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: In PDR-56A [1] we proposed to revise our environmental regulation. Our notice of proposed rulemaking provided for the filing of comments but did not allow an opportunity for the filing of reply comments.

In response to a carrier's request, we have decided that the filing of reply comments should be allowed. This will allow all interested persons to respond to comments submitted and will give the Board a broader information base. (Sections 204 and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat 743 and 788, 49 U.S.C. 1324 and 1482; the National Environmental Policy Act of 1969, 83 Stat. 352 *et seq.*, 42 U.S.C. 4321 *et seq.*; and Executive Order 11514.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-28877 Filed 9-17-79; 8:45 am]

BILLING CODE 6320-01-M

[1] 44 F.R. 45637 (August 3, 1979).

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-16166, File No. 4-220-1X]

Off-Board Trading Restrictions; Notice Concerning Comments Regarding Proposed Rule Submitted After July 23, 1979

AGENCY: Securities and Exchange Commission.

ACTION: Notice concerning comments regarding proposed rule.

SUMMARY: The Commission provides notice that all comments regarding proposed Rule 19c-3 submitted after July 23, 1979, will not become part of the official record of the proceeding on that proposal but will instead be placed in a sub-file for public review. The Commission had indicated in the release announcing the proposal of Rule 19c-3 that letters submitted after that date would not be made part of the record of the Rule 19c-3 proceeding.

FOR FURTHER INFORMATION CONTACT: Stephen L. Parker, Special Counsel, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-2890.

SUPPLEMENTARY INFORMATION: On April 26, 1979, the Commission announced the commencement of a proceeding ("Rule 19c-3 Proceeding"), including public hearings, to consider amendments of rules of national securities exchanges ("exchanges") which limit or condition the ability of members to effect transactions over-the-counter in securities listed and registered or admitted to unlisted trading privileges on an exchange.[1] Specifically, the Commission proposed Rule 19c-3 under the Securities Exchange Act of 1934 ("Act") which would prevent off-board trading restrictions from applying, with certain exceptions, to any equity security or class of equity securities (i) which was not traded on an exchange on April 26, 1979, or (ii) which was

[1] *See* Securities Exchange Act Release No. 34-15769 (April 26, 1979), 44 FR 28688. ("Rule 19c-3 Release").

traded on an exchange on April 26, 1979, but ceases to be listed and registered or admitted to unlisted trading privilege pursuant to section 12(f)(1)(A) of the Act on an exchange for any time thereafter.

Off-board trading restrictions have been the subject of Commission [2] and Congressional studies,[3] as well as two Commission regulatory proceedings.[4] In addition, questions concerning off-board trading restrictions have been raised before the Commission in other contexts.[5] Those earlier proceedings, as well as other related matters, have generated a significant number of public comments regarding off-board trading restrictions, all of which are incorporated into the record of this proceeding and are being considered by the Commission.[6]

It has been the Commission's practice to accept comment letters submitted after the expiration of comment periods specified in its announcement of rulemaking proceedings.[7] In this instance, however, in view of the extensive materials already part of the record of this proceeding and the prior opportunity of interested persons to present their views regarding off-board trading restrictions, the Commission determined to adhere strictly to the specified comment period on proposed Rule 19c–3. Thus, the Commission announced in the Rule 19c–3 Release that comments submitted subsequent to the specified comment period would not become part of the record or considered by the Commission unless the comment period is formally extended.[8]

The Commission has received a number of comment letters regarding proposed Rule 19c–3 that were clearly submitted subsequent to the expiration of the comment period. The Commission continues to believe that, under the circumstances of this proceeding, inclusion of these letters in the official record of the proceeding would not be fair to those persons who have prepared comment letters within the time frame established by the Commission and to those persons who may have determined not send comment letters subsequent to the expiration of the specified comment period in reliance on the Commission's statement that such comment letters would not be accepted. Accordingly, all letters that have been or will be received regarding proposed Rule 19c–3 subsequent to the expiration of the comment period will not form part of the official record of this proceeding. The Commission has determined to have such letters placed in File No. 4–220–1X, where they may be reviewed by the public.

By the Commission.

George A. Fitzsimmons,

Secretary.

September 7, 1979.

[FR Doc. 79–28843 Filed 9–17–79; 8:45 am]

BILLING CODE 8010–01–M

[2] *See, e.g.*, Securities and Exchange Commission Report-Rule 394 (September 14, 1965), *reprinted in* Study of the Securities Industry Report ("House Study"), Hearings Bef. the Subcomm. on Com. & Fin. of the House Comm. on Interstate & For. Com., 92nd Cong., 2d Sess., at 3362 (1972); and SEC, *Report of the Securities and Exchange Commission on Rules of National Securities Exchanges Which Limit or Condition the Ability of Members to Effect Transactions Otherwise Than on Such Exchanges* (September 2, 1975).

[3] *See, e.g.*, House Study, at 126–28.

[4] The first of those regulatory proceedings commenced on September 2, 1975, *see* Securities Exchange Act Release No. 11628 (September 2, 1975), 40 FR 41808, and culminated in the adoption of Rule 19c–1 under the Act. *See* Securities Exchange Act Release No. 11942 (December 19, 1975), 41 FR 4507. The second proceeding, the ultimate determination of which is still pending before the Commission, commenced on June 23, 1977. *See* Securities Exchange Act Release No. 13662 (June 23, 1977), 42 FR 33510.

[5] *See, e.g.*, Securities Exchange Act Release No. 15376 (December 1, 1978), 43 FR 58664.

[6] The record of the proceedings concerning off-board trading restrictions (including transcripts of public hearings and written views, data and arguments submitted during the proceedings) is contained in File No. 4–180. Other materials concerning off-board trading restrictions may be found in File Nos. SR–Amex–77–3, SR–Amex–77–18, and S7–735–A. The information contained in those files has been formally made part of the record of the Rule 19c–3 Proceeding. *See* Rule 19c–3 Release, *supra* note 1, at 4, 44 FR at 26688.

[7] The authority of the Commission to accept comments submitted subsequent to the expiration of a specified comment period is a matter of the Commission's discretion, as provided by Rule 201.28(b) of the Act (17 CFR 201.28).

[8] *See* Rule 19c–3 Release, *supra* note 1, at 24, n. 27, 44 FR at 26692, n. 27.

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 51 and 52]

[FRL 1321–3]

Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans; Public Hearings

AGENCY: Environmental Protection Agency.

ACTION: Notice of public hearings and period for submitting rebuttal and supplementary information.

SUMMARY: On September 5, 1979, EPA proposed certain amendments to its regulations relating to the review of new and modified sources under both the prevention of significant deterioration (PSD) and nonattainment provisions of the Clean Air Act. See 44 FR 51924. EPA will hold public hearings on the those proposals at the times and places given below. After the completion of those hearings, EPA will reopen the rulemaking docket for 30 days for the submittal of rebuttal and supplementary information only.

DATES: *Written comments.* As established in the proposal, the deadline for submitting written comments is October 5, 1979. They should be sent (in triplicate, if possible) to the Central Docket Section (A–130), Environmental Protection Agency, 401 M Street, SW., Washington, D.C., Attention: Docket No. A–79–35.

Rebuttal and Supplementary Information

The deadline for submitting information that rebuts or supplements any presentation at the hearings is November 18, 1979. Such information should be sent to the Central Docket Section at the address given above.

ADDRESSES: EPA will hold the public hearings as follows:

(1) On October 15 and 16, 1979, at 9:00 a.m. (local time), at EPA Headquarters, Room 2409, 401 M Street, SW., Washington, D.C.;

(2) On October 18 and 19, 1979, at 9:00 a.m. (local time), at EPA Region IX, Nevada Room, 215 Fremont Street, San Francisco, CA.

FOR FURTHER INFORMATION CONTACT: Michael Trutna, Standards Implementation Branch (MD–15), Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711. Commercial telephone: (919) 541–5292; FTS: 629–5292.

Public Hearings

SUPPLEMENTARY INFORMATION: EPA recently began rulemaking under Section 307(d) of the Clean Air Act, 42 U.S.C. 7607(d), to amend its regulations relating to the review of new and modified sources of air pollution under both the PSD and nonattainment provisions of the Act. See 44 FR 51924 (September 5, 1979). Section 307(d) requires EPA to "give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions". Accordingly, EPA will hold public hearings on October 15–16 and 18–19, 1979, at the times and places given above.

The hearings will be informal. A panel of EPA personnel will hear oral presentations. There will be no cross-examination and no requirement that any speaker be under oath. Each member of the panel may seek clarification or amplification of any

presentation. The presiding officer of the panel may set a time limit for each presentation and may restrict any presentation that would be irrelevant or repetitious. A transcript of each hearing will be made and placed in the rulemaking docket.

Any person who wishes to speak at one of the hearings should as soon as possible send EPA written notice that he or she does, giving name, address, telephone number, the hearing at which he or she prefers to speak, and the length of the presentation. Anyone stating that his or her presentation would be longer than 20 minutes should also state why it need be longer. Each notice should be sent to Michael Trutna, Standards Implementation Branch (MD–15), Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711. EPA will develop a schedule for presentations based on the notices it receives. Anyone who fails to submit a notice, but wishes nevertheless to speak at a hearing, should so notify the presiding officer immediately before the hearing. The presiding officer will decide whether, when and for how long the person may speak. Each speaker should bring extra copies of his or her presentation for the convenience of the hearing panel, the hearing reporter, the press and other participants. The hearings will be open to the public.

Rebuttal and Supplemental Information

Section 307(d) of the Act also requires EPA to "keep the record of (any hearing) open for thirty days after the completion of the (hearing) to provide an opportuity for the submission of rebuttal and supplementary information." EPA therefore will accept until November 18, 1979, any material that rebuts or supplements any presentation at the hearings. Any such material should be sent to the Central Docket Section at the address given above. EPA will accept no other material, and will regard material which raises a new issue as neither rebutting nor supplementing a presentation.

(Secs. 101(b)(1), 110, 114, 160–69, 301(a) and 307(d) of the Clean Air Act, as amended (42 U.S.C. 7401(b)(1), 7410, 7414, 7470–79, 7601(a) and 7607(d))

Dated: September 13, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 79–28929 Filed 9–17–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 52]

[FRL 1320–2]

Missouri: Proposed Approval of State-Issued Variances Submitted as Revisions to the Missouri State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: In order to satisfy the requirements of the Clean Air Act, The State of Missouri has submitted to the Environmental Protection Agency (EPA) a State Implementation Plan (SIP) for attainment and maintenance of national ambient air quality standards. Portions of the SIP have been approved by the Administrator of EPA and are now enforceable by EPA as Federal regulations. The State of Missouri has submittted as revisions to the State implementation plan variance orders issued by the Missouri Air Conservation Commission (MACC) for sources found to be in violation of regulations which are part of the approved SIP. Through this notice EPA proposes to approve the variance orders issued by the MACC to Pilot Knob Pellet Company (Pilot Knob, Mo.) and Associated Electric Cooperative (AEC) Thomas Hill Station (Moberly, Mo.).

DATES: Comments must be postmarked by no later than October 18, 1979, for Pilot Knob Pelleting Company; and October 18, 1979, for Associated Electric Company, Thomas Hill Station.

ADDRESSES: (1) The schedules and evaluation reports are available for inspection at the Region VII Office of the Environmental Protection Agency, 324 East 11th Street, Kansas City, Mo. 64106; (2) comments should be sent to the Director, Enforcement Division, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Mo. 64106.

FOR FURTHER INFORMATION CONTACT: Anthony Wayne or Henry F. Rompage, Enforcement Division, EPA, Region VII, 324 East 11th Street, Kansas City, Mo. 64106, telephone 816/374–2576.

SUPPLEMENTARY INFORMATION:

Background

On January 24, 1972, pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the State of Missouri submitted to EPA an implementation plan for attainment and maintenance of national ambient air quality standards. The plan contained State statutes, State and local regulations, control strategies, and other information. On May 31, 1972 (37 FR 10875), the Administrator approved the Missouri SIP with specific exceptions. Since then, Missouri has submitted to EPA a number of revisions to the SIP, including revisions to the State legislative authority, revisions to State and local regulations for air pollution control, and variance orders issued by the MACC for sources found to be in violation of regulations contained in the approved SIP. The term variance is defined at 40 CFR 51.1(y) as the temporary deferral of a final compliance date for an individual source subject to an approved regulation, or a temporary change to an approved regulation as it applies to an individual source. Thus a variance does not revise a source's underlying obligations; rather it merely alters the time frame within which the obligation must be satisfied. One of the variances which is the subject of this notice, AEC, contains a schedule for complying with the approved regulation and was thus reviewed as a variance within the meaning of § 51.1(y). The Pilot Knob variance on the other hand did not contain a schedule for compliance and was reviewed as an indefinite relaxation of the approved regulation as will be explained more fully below.

Section 110(a)(2)(B) of the Clean Air Act (42 U.S.C. 7410(a)(2)(B)), provides that a State implementation plan, in order to be approvable, must include "* * * emission limitations, schedules, and timetables for compliance with such limitations, and such other measures as may be necessary to ensure attainment and maintenance of (national ambient air quality standards) * * *" The SIP must set forth a control strategy which demonstrates that the emission limitations and other regulatory requirements contained in the plan provide for the degree of emission reduction necessary for attainment and maintenance of such national standards, including the degreee of emission reduction necessary to offset emission increases that can reasonably be expected to result from projected growth of population, industrial activity, motor vehicle traffic, or other factors that may cause or contribute to increased emissions (40 CFR 51.12(a)). In areas where measured or estimated ambient levels are below the national secondary standard, the control strategy must demonstrate that the statutory and regulatory authority contained in the plan is adequate to prevent such ambient pollutant levels from exceeding the secondary standard (40 CFR 51.12(b)). The requirements of section 110(a)(2) of the Act, and 40 CFR 51.12 apply equally as well to any revision to

the State implementation plan (see section 110(a) of the Act, and 40 CFR 51.6 and 51.34).

In seeking approval of an individual source variance or exemption as a plan revision, the State must demonstrate the adequacy of the overall control strategy as it may be affected by the proposed revision. This would require more than a demonstration that the emissions from the source will not cause a violation of the national standards. The demonstration must include, but would not necessarily be limited to, a consideration of measured or estimated ambient levels of a pollutant in the area affected by emission from the source, the impact of emissions from sources that have been approved for construction (or from other reasonably anticipated growth during the period of the compliance schedule) which is not reflected in current ambient data, and the impact of the proposed plan revision. For sources indefinitely or permanently exempted from the approved regulation, broader consideration must be given to reasonably expected growth. A more detailed explanation of the general criteria employed by the Agency in determining the adequacy of a control strategy demonstration is contained in the preamble to the proposed Part 51 regulations relating to approval of variances as SIP revisions (40 FR 58317, December 16, 1975).

The variance orders which are the subject of this notice were adopted by the State and submitted to the Environmental Protection Agency after notice and public hearings in accordance with the procedural requirements in 40 CFR 51.4 and 51.6. The variance orders were submitted to EPA by the staff director, air quality program, Missouri Department of Natural Resources. A question has arisen regarding whether the staff director is duly authorized to submit revisions to the Missouri SIP on behalf of the Governor of Missouri. The Missouri attorney general's office has informally stated that the Missouri Department of Natural Resources has the inherent authority to submit revisions to EPA, and EPA has previously approved SIP revisions submitted by the staff director.

Pilot Knob Pellet Co.

The terms of the variance require Pilot Knob Pellet Company to meet an interim emission limitation of 110 pounds of particulate per hour until the final compliance date of December 31, 1982. The company must continue to operate and report the data from its ambient monitoring network. The company must post a $100,000 bond which is to be forfeited if the company fails to demonstrate compliance by December 31, 1982.

The control strategy demonstration indicates that at no time during 1976 were ambient air quality standards for particulates exceeded in Iron County, Missouri. In addition, growth projections through 1982 predict no increases in air emissions sufficient to cause air quality standards to be exceeded in 1982. No inventory of point and area sources is found for Iron County. Since Iron County is as rural as it is, it is doubtful that there are any significant sources and very few area sources that would have any significant impact upon air quality in or near Pilot Knob. Dispersion modeling revealed the company's emissions would not by any means cause violations of either the Secondary or Primary Particulate National Ambient Air Quality Standards (NAAQS).

The company has submitted an adequate control strategy demonstration that clearly demonstrates the SIP, as revised, will provide for the attainment and maintenance of NAAQS.

Associated Electric Co.

The terms of the variance require AEC to meet incremental dates for installing control equipment at Thomas Hill Unit No. 2 to meet the applicable regulations with a final compliance date of December 1, 1979. The control strategy demonstration indicates that the power plant is in a rural setting surrounded by crop land, pasture, range land and forests, the largest city, Moberly, is fifteen miles away, and there is no impact on the area from other sources of emissions. In addition, anticipated growth in the area was considered, as well as emissions data from this source. It has been determined that the NAAQS for particulates will not be exceeded the period of the variance.

Public Comments

Interested persons are invited to submit comments concerning the proposed action to the Regional Administrator, Attention: Director, Enforcement Division, 324 East 11th Street, Kansas City, Mo. 64106. Relevant comments received on or before October 18, 1979, will be considered. All comments received will be available for inspection during normal working hours at the EPA Region VII office.

Availability of Documents

Copies of each of the variance orders and an evaluation report relative to each variance order are available at the Environmental Protection Agency, Regional Office, Region VII, Enforcement Division, 324 East 11th Street, Kansas City, Mo. 64106.

(Sec. 110, Clean Air Act, as amended (42 U.S.C. 7410).)

Dated: September 4, 1979.

Kathleen Q. Camin,

Regional Administrator, Region VII.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

1. In § 52.1335, the table in paragraph (a) is amended by adding the following:

§ 52.1335 Compliance schedules.

* * * * *

(a) * * *

Source	Location	Regulation involved [1]	Effective date	Final compliance date
Pilot Knob Pelleting Company	Pilot Knob, Mo.	V (10 CSR 10-3.050)	Immediately	12-31-79
Associated Electric Company, Thomas Hill Station, Unit No. 2.	Moberly, Mo	VI (10 CSR 10-3.060) VIII (10 CSR 10-3.080)	Immediately	12-1-79

[1] Effective July 1, 1976, the State of Missouri revised the numbering system for all air pollution control regulations throughout the State. The State air regulations are now contained in title 10, division 10 of the code of State regulations, designated 10 CSR 10. Since the new regulatory numbering system has not been formally submitted by the State to EPA as a revision to the Missouri implementation plan, the old regulation number has been cited with a reference to the corresponding new number indicated in parentheses.

[FR Doc. 79-28951 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 60]

[FRL 1321-5]

Standards of Performance for New Stationary Sources; Stationary Internal Combustion Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of Comment Period.

SUMMARY: The deadline for submittal of comments on the proposed standards of performance for stationary internal combustion engines, which were proposed on July 23, 1979 (44 FR 43152), is being extended from September 21, 1979, to October 22, 1979.

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

ADDRESSES: Comments should be submitted to Mr. David R. Patrick, Chief, Standards Development Branch (MD–13), Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

FOR FURTHER INFORMATION CONTACT: Mr. Don R. Goodwin, Director, Emission Standards and Engineering Division (MD–13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5271.

SUPPLEMENTARY INFORMATION: On July 23, 1979 (44 FR 43152), the Environmental Protection Agency proposed standards of performance for the control of emissions from stationary internal combustion engines. The notice of proposal requested public comments on the standards by September 21, 1979. Due to a delay in the shipping of the Standards Support Document, sufficient copies of the document have not been available to all interested parties in time to allow their meaningful review and comment by September 21, 1979. EPA has received a request from the industry to extend the comment period by 30 days through October 22, 1979. An extension of this length is justified since the shipping delay has resulted in approximately a three-week delay in processing requests for the document.

Additionally, page 9–75 of the Standards Support Document was inadvertently omitted. Persons wishing to obtain copies of this page should contact Mr. Doug Bell, Emission Standards and Engineering Division, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5477.

Dated: September 12, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 79–28927 Filed 9–17–79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611]

Trawl Fisheries of Washington, Oregon, and California; Preliminary Fishery Management Plan Amendment, Proposed Implementing Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Notice of approval of preliminary fishery management plan amendment; proposed regulations.

SUMMARY: An amendment to the Second Supplement to the Preliminary Fishery Management Plan (PMP) for the Trawl Fishery of Washington, Oregon, and California, submitted by the Northwest Regional office of the National Marine Fisheries Service (NMFS), is approved. This amendment lowers the estimates of domestic annual harvest (DAH) and commensurately increases the total allowable level of foreign fishing (TALFF). Revised regulations to implement the amendment are proposed.

DATE: Comments are invited until September 30, 1979.

ADDRESS: Comments should be addressed to: Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Donald R. Johnson, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109, Telephone Number (206) 442–7575.

SUPPLEMENTARY INFORMATION: In accordance with provisions made in the Second Supplement to the PMP, the Regional Director on August 1 reviewed the total domestic harvest of Pacific hake through July 15 and the results of an NMFS survey of expected harvest for the remainder of the fishing year, including processors' intentions. Based on this review, the Regional Director determined that the DAH for Pacific hake should be lowered and the TALFF commensurately increased by 12,500 m.t. The purpose of the amendment is to make available for foreign fishing fish which will not be harvested by domestic vessels. The Assistant Administrator for Fisheries approved the amendment on August 26, 1979.

The second supplement to the Preliminary Management Plan for the Trawl Fisheries of Washington, Oregon, and California is hereby amended by adding the following Section 14.0:

14.0 1979 Amendment revising DAH and TALFF

In accordance with provisions contained in Section 2.3.2.1, the initial DAH was re-evaluated on August 1. It was determined, following a NMFS survey of domestic harvest and processor intentions for the remainder of the fishing year, that domestic need was below the initial DAH by 12,500 m.t. Accordingly, DAH for pacific hake is hereby decreased by 12,500 m.t. and TALFF is increased by a like amount. The revised DAH and TALFF, which supersede the initial amounts contained in the Second Supplement, are as follows:

Revised DAH—37,500 m.t.
Revised TALFF—161,400 m.t.[1]

The Assistant Administrator for Fisheries, NOAA, under a delegation of authority from the Secretary of Commerce, has determined that this amendment to the PMP: (1) is necessary and appropriate to the conservation and management of Washington, Oregon, and California groundfish resources; (2) is consistent with the National Standards and other provisions of the Act; (3) does not constitute a major Federal action requiring the preparation of an environmental impact statement; and (4) does not constitute a significant action requiring the preparation of a regulatory analysis under Executive Order 12044.

Since the reasons for amending the PMP were set forth in the original publication, and public comment was requested at that time, the time for further comment has been reduced from 30 days to 15 days.

Signed at Washington, D.C. this 12th, day of September, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

Amend 50 CFR 611.20 Table 1 by deleting the section on Washington, Oregon, and California and substituting the following:

§ 611.20 [Amended]

* * * * *

Fishery	Species	Species code	TALFF (m.t.)
* * * * *			
Washington, Oregon, California.	Hake	704	161,400
Do	Flounders	129	162
Do	Mackerel	208	4,842
Do	Rockfishes[1]	849	1,269
Do	Perch, Pacific ocean.	780	101

[1] TALFF was increased on August 1, 1979, from 109,120 m.t. to 148,900 m.t. by the addition of the total amount of the reserve, 39,780 m.t.

Fishery	Species	Species code	TALFF (m.t.)
* * * * *			
Do	Sablefish	703	162
Do	Other species	499	808
* * * * *			

[1] Including Pacific ocean perch.

Amend 50 CFR 611.70(b) Table 1 by deleting the table and substituting the following:

§ 611.70(b) [Amended]

Table 1.—Washington, Oregon, and California Trawl Fishery: TALFF and Reserve by Species [1]

[Metric Tons]

Species	Initial TALFF	Reserve [4]	Addition from DAH	Total TALFF
Pacific Hake	109,120	39,780	12,500	161,400
Flounders [2]	109	40	13	162
Jack Mackerel [2]	3,274	1,193	375	4,842
Rockfishes, including Pacific ocean perch [2]	873	316	100	1,289
Pacific Ocean Perch [2]	68	25	8	101
Sablefish [2]	109	40	13	162
Other species [2,3]	546	199	63	808

[1] The TALFFs specified in this table may be modified during the year if reserves are apportioned to TALFF.

[2] Unavoidable incidental catch only. Reserve amounts may be apportioned to TALFFs to the extent the Pacific hake reserve is apportioned to TALFF during the year.

[3] The category "other species" includes all species of fish except (A) the other fish listed in the table; and (B) billfish, Pacific halibut, salmon, scallops, sharks (except dogfish), shrimp, steelhead trout, and Continental Shelf fishery resources.

[4] Total amount of reserve released to TALFF by Regional Director on August 1, 1979.

[FR Doc. 79-28807 Filed 9-17-79; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

[7 CFR Part 624]

Emergency Watershed Protection

AGENCY: Soil Conservation Service (SCS), U.S. Department of Agriculture (USDA).

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes the general procedures for implementation of the Emergency Watershed Protection (EWP) program under the additional authority of section 403 of the Agricultural Credit Act of 1978, Title 4, Pub. L. 95–334, 92 Stat. 434, 16 U.S.C. 2203. The proposed rule amplifies and revises the rules for EWP work currently being carried out under the sole authority of section 216, Pub. L. 81–516, 64 Stat. 184 (33 U.S.C. 701b–1) which were published March 19, 1975 (40 FR 12480).

DATES: Comments are due on or before November 19, 1979. The proposed rules will become effective as interim guidelines October 1, 1979. All comments received during the review period will be considered during preparation of the final rules.

ADDRESS: Interested persons are invited to submit written comments to Joseph W. Haas, Assistant Administrator for Water Resources, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013 (202–447–4527).

FOR FURTHER INFORMATION CONTACT: James W. Mitchell, Director, Watersheds Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013 (202–447–3527).

SUPPLEMENTAL INFORMATION: On December 13, 1978, the Soil Conservation Service published in the **Federal Register** (43 FR 58192) a notice of intent to review regulations, policies and procedures for implementing the EWP program under the authority of section 216, Pub. L. 81–516. On July 25, 1979, the Department of Agriculture published in the **Federal Register** (44 FR 43477) an advance notice of forthcoming decisions leading to the implementation of Title IV, section 403, Pub. L. 95–334. Several comments regarding these notices were received from State agencies, organizations, and individuals. All written comments were considered in developing the proposed rules. Some of the comments contained suggestions which were incorporated into the proposed rules such as (1) establishment of a Washington Office review team to assist in determining eligible measures; (2) providing criteria for exigency type emergencies different than that for emergencies not of an exigency nature; (3) requiring more attention to environmental consequences; (4) attempting to more clearly define eligibility requirements; (5) giving more attention to economic defensibility of emergency measures; and (6) requiring operation and maintenance agreements with sponsors for permanent, long enduring type of emergency measures. Other comments and suggestions not incorporated at this time will be given further consideration, along with the comments received on this proposed rule, during preparation of the final rules and regulations. These proposed rules have been developed in consultation with personnel from the U.S. Fish and Wildlife Service, Department of the Interior, the U.S. Forest Service, Department of Agriculture, and representatives of the Department of Agriculture.

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations" and has been classified "significant." An approved draft impact analysis is available from James W. Mitchell, Director, Watersheds Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013 (202–447–3527).

Dated: September 10, 1979.

R. M. Davis,

Administrator, Soil Conservation Service.

Accordingly, it is proposed that Part 624 of Title 7 be amended to read as follows:

PART 624—EMERGENCY WATERSHED PROTECTION

Sec.

624.1 Purpose.
624.2 Objectives.
624.3 Scope.
624.4 Administration.
624.5 Eligibility.
624.6 Conditions essential to furnishing assistance.
624.7 Limitations on use of emergency funds.
624.8 Environment.
624.9 Application.
624.10 Investigation and request for funds.

Authority: Sec. 216, Pub. L. 81–516, 33 U.S.C. 701b–1; and sec. 403, Pub. L. 95–334, 16 U.S.C. 2203.

§ 624.1 Purpose.

This part sets forth the requirements and procedures for Federal assistance administered by the SCS under section 216, Pub. L. 81–516; and Title IV, section 403 of the Agricultural Credit Act of 1978, Pub. L. 95–334.

§ 624.2 Objectives.

The objective of the EWP program is to provide Federal assistance for safeguarding lives and properties from floods and the products of erosion and to eliminate or reduce hazards created by natural disasters causing a sudden impairment of the watershed.

§ 624.3 Scope.

(a) Authorized EWP technical and financial assistance may be provided to the extent funds and manpower are available when an emergency exists. Emergency watershed protection consists of such emergency measures for runoff retardation and soil erosion prevention as needed to safeguard lives and property from floods, droughts, and the products of erosion on any watershed impaired by a natural disaster.

(b) Technical assistance includes engineering and other disciplines needed for planning and installing emergency measures. Emergency watershed protection is authorized in the 50 States, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

§ 624.4 Administration.

The SCS shall provide overall administrative direction and guidance for EWP. Funds shall be transferred by SCS to the Forest Service (FS) of the U.S. Department of Agriculture (USDA) at the national level for work to be installed by FS or its cooperators. Under general program criteria and procedures established by SCS, the FS is responsible for administering the forestry aspects of EWP on the national forests and rangelands within national forest boundaries, on adjacent rangelands that are administered under formal agreement with the FS, and on other forest lands. When these lands are involved, the emergency work is to be done either by SCS or FS in a mutually agreeable manner. In carrying out its responsibilities, FS is to work cooperatively with SCS and other Federal, State, and local government agencies.

§ 624.5 Eligibility.

(a) An emergency exists if a watershed is impaired by flood, fire, wind, earthquake, drought, or other natural force and the impairment creates an imminent hazard to life and/or property. The impairment must have occurred as the result of a disaster event causing the emergency rather than a long-term accumulation of events.

(b) Emergency watershed protection assistance is available to landowners, managers, residents, and others having a legal interest or responsibility in areas affected by sudden impairment of a watershed by a natural disaster. Interested persons should apply through a sponsor as defined in § 624.6(c)(2).

(c) In determining eligibility, State Conservationists (STC) are to take into consideration two broad types or degrees of emergency situations in carrying out EWP work: (1) A compelling situation of unusual urgency—public exigency and (2) An emergency requiring action because of potential for future hazard to life and property, but of less urgency than the compelling situation.

(d) Emergency measures, for both types of emergencies, are those undertaken to remove or reduce hazards created by the disaster event in order to safeguard lives and property from flooding, or droughts and the products of erosion.

(e) The Agricultural Stabilization and Conservation Service (ASCS) will determine when drought conditions constitute an emergency. The conditions under which a drought is defined will be described in rules and regulations published by ASCS to carry out sections 401 and 402 of Pub. Law 95–334.

A. Exigency

When an exigency exists, Federal emergency funds may bear up to 100 percent of the construction costs for emergency measures. Funds for this type of emergency must be obligated within 10 days after the STC receives the emergency funds or after the date of the disaster event when conditions permit beginning of construction activities, whichever date is the latest. The emergency work should normally be completed within 30 days after the funds are obligated. Measures eligible for this type of an emergency may include such things as:

(1) Opening watercourses where flow is severely restricted.

(2) Seeding areas denuded by fires.

(3) Repairing or constructing protective measures such as diversions, dikes, or jetties.

(4) Stabilizing streambanks where it is obviously an imminent threat to life and/or property. Rock riprap, cribbing, and piling may only be used to protect roads, bridges, buildings, and public facilities.

B. Nonexigency

When an exigency does *not* exist, Federal emergency funds may bear up to 80 percent of the contruction costs for emergency measures. Sponsors may provide their share for construction costs in the form of (1) cash; (2) inkind services such as labor, equipment, etc.; or (3) a combination of cash and inkind services. Emergency funds for this type of emergency must be obligated within 220 consecutive calendar days after the date of allotment of funds to the States. Measures eligible for this type of emergency may include such things as:

(1) Establishing vegetative cover such as grass, or close growing shrubs on denuded or severely eroded land.

(2) Opening watercourses where flow is severely restricted.

(3) Repairing or constructing protective measures such as debris basins, diversions, dikes, or jetties.

(4) Stabilizing streambanks with vegetative cover, riprap, cribbing, or piling. Rock riprap, cribbing, and piling may only be used to protect roads, bridges, buildings, and public facilities.

(5) Constructing emergency road stabilization and repair measures for erosion control such as water bars, pulling ditches, out sloping road surfaces and other nonstructural practices. Any *improvements* of roads, additional culverts, etc., are *not* eligible.

(6) Constructing emergency wind erosion measures in cases of extreme drought conditions to prevent blockages of watercourses or continuing sediment deposition on properties affecting the general public.

When planning emergency measures, emphasis should be placed on those measures which are the most environmentally sound. The measures will be accomplished using the least damaging construction techniques and equipment in order to retain as much of the existing characteristics of the channel and riparian habitat as possible. Construction practices may include, but are not limited to, such things as seasonal contruction, minimum clearing, reshaping spoil, limiting excavation to one bank (on alternating sides where appropriate), and prompt revegetation of disturbed areas. If necessary, measures needed to offset adverse impacts should be planned for installation concurrent with installation of the emergency measures.

An EWP team consisting of SCS and FS Washington Office and technical service center personnel will determine the eligibility of all permanent, enduring, or long-life measures or practices proposed for construction. The team will determine the need for funds before any commitments are made to sponsors or individuals. The team will also be available, at the request of the STC(s) and Regional Foresters and Area Directors to help determine the eligibility of other EWP measures or practices and to assist with administrative details.

§ 624.6 Conditions essential to furnishing assistance.

(a) The watershed impairment must:

(1) Have occurred as a result of a disaster event rather than a long-term accumulation of events.

(2) Result in a threat, exceeding that of the predisaster condition to *life* or *property* from floods or the products of erosion.

(b) Emergency measure(s) must be:

(1) The least expensive, most environmentally sound technique as can be readily determined which will provide relief from the hazard causing the emergency.

(2) Limited to the minimum that will reduce the threat to lives and property to the degree that such threat existed before the impairment.

(3) Beneficial to more than one beneficiary.

(c) *Other criteria.* (1) Assistance must be requested by a sponsoring organization(s). The sponsors must be a legal entity of State government such as conservation districts, counties, cities, or State agencies. To receive assistance, the sponsors must have legal authority and agree to use such authority to obtain needed landrights, water rights,

and permits and agree to operate and maintain completed work on all permanent type measures. Sponsors are expected, as conditions permit, to furnish inkind services, equipment, labor, etc. The sponsors will also assist the SCS in selecting the priorities among eligible areas.

(2) Emergency work must conform with rules and regulations published July 30, 1979 (44 FR 44461–44467), by SCS for complying with Executive Orders 11990 and 11988.

(3) When an exigency does *not* exist, the STC must provide rationale of economic defensibility for spending Federal funds for emergency work. Information provided in the request for emergency funds to support economic defensibility should include but not be limited to:

(i) Numbers and values of residential, commercial, industrial, or other properties to be protected.

(ii) Acres and value of land protected.

(iii) Numbers involved in elimination or reduced threat to loss of life.

(iv) Value of bridges, roads, railroads, utilities, etc., to be replaced if destroyed.

(v) Cost to remove sediment subject to being deposited downstream in reservoirs, lakes estuaries, streams, etc., along with the estimated amount of loss of acre-feet capacity if appropriate.

(vi) Amount of business losses and associated employment losses.

(vii) Thorough description of benefits to environmental resources including fish and wildlife habitat improvements and quantities if available.

(viii) Description of water quality and water conservation benefits as appropriate.

(ix) etc.

§ 624.7 Limitations on use of emergency funds.

Emergency watershed protection funds are *not* to be used to:

(a) Perform normal operation or maintenance (periodic work that is necessary to maintain the efficiency and effectiveness of a measure to perform as originally designed and installed).

(b) Solve watershed problems that existed before the disaster-causing event.

(c) Repair, rebuild or maintain private or public transportation facilities, public utilities or similar facilities.

(d) Perform work on features of projects installed under the authority of Pub. L. 83–566, RC&D, or Pub. L. 78–534.

(e) Perform work on measures installed by other Federal agencies. Exceptions may be made at the discretion of the Administrator of SCS.

624.8 Environment.

Environmental aspects of emergency work shall be given careful consideration. A program environmental impact statement for EWP work has been developed in compliance with section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, 83 Stat. 852 (42 U.S.C. 4321 et seq.)). The Administrator shall notify the Director of the Environmental Protection Agency, with a copy to the Chairman of the Council on Environmental Quality, by letter when funds are made available for emergency work. The notification shall be a supplement to the program environmental impact statement. An environmental assessment will be prepared. State conservationists shall notify regional offices of the U.S. Fish and Wildlife Service, the Environmental Protection Agency, and the State fish and game and other appropriate agencies of anticipated EWP work and invite their assistance in preparing environmental assessments and in planning and implementing the emergency work. Archeological, historical, or other special expertise needed shall be solicited from appropriate agencies and groups. Environmental and other considerations shall be integrated into emergency work using an interdisciplinary planning approach.

§ 624.9 Application.

Sponsors may apply to any SCS office for EWP assistance. The SCS will help sponsors prepare their applications. The SCS offices are defined in Part 600 of this chapter. The application shall be in writing and shall describe the nature, location, and scope of the problems and the assistance needed.

§ 624.10 Investigation and request for funds.

(a) Upon receipt of an application for EWP, the STC and Regional Forester or Area Director, where appropriate, shall immediately investigate the emergency situation to determine if EWP is applicable. State Conservationists are to take into consideration two broad types or degrees of emergency situations in carrying out EWP work: (1) A compelling situation of unusual urgency—public exigency and (2) An emergency requiring action but of less urgency than the compelling situation. (See § 624.5)

(b) Prompt remedial action to eliminate an imminent threat to loss of life will be provided when a public exigency exists. The STC is to notify the Watersheds Division by telephone and indicate the nature of the emergency and the estimated amount of funds needed. If funds are made available, the STC may authorize actions necessary to remedy the emergency. The STC is to confirm the telephone call in a memorandum to the Administrator that explains the nature of the emergency, the location of emergency, kind of remedial work, funds needed, sponsors involved, description of potential damage, etc. In such situations, the memorandum from the STC with its brief information constitutes the request for funds.

(c) When an exigency does *not* exist, but the impairment justifies emergency assistance, the STC is to submit a request for funds to the Administrator. The request for funds should be submitted within 60 days following the disaster event. Neither the SCS nor the FS is to commit funds until notified by the Washington Office of the availability of funds.

(d) The request for funds should include, but not be limited to, the following information:

(1) Total amount of funds needed.

(i) Amount requested for SCS.

(ii) Amount requested for FS.

(2) Endorsement by Regional Forester or Area Director if there has been an input for forest lands.

(3) Event date and cause of watershed impairment.

(4) Date of funding request.

(5) Members of the investigation team.

(6) Location (county, parish, other) of watershed impairment.

(7) Description of impairment and of potential damages from flooding and the products of erosion including:

(i) Environmental assessment of impaired watershed.

(ii) Types of health hazards anticipated and number of people concerned.

(iii) Land use of property endangered.

(8) Rationale for economic defensibility (See § 624.6(c)(3) for material to be presented).

(9) Map showing:

(i) Land ownership or management of endangered area (national forest, private, other).

(ii) Location of potential damage that would be prevented or alleviated by emergency treatment.

(iii) Area to receive emergency treatment.

(10) Estimated kind, quantity, and cost of emergency measures recommended.

(11) Summarization of the assessment of the environmental impacts expected during and following installation of the recommended measures. Include a summary of substantive comments of other agencies.

(12) Identification of sponsors requesting assistance.

(13) List of other Federal, State, and local organizations that are involved. Show type and extent of involvement of each.

(14) Additional maps, tables, charts, or photographs, as determined necessary.

[FR Doc. 79-28823 Filed 9-17-79; 8:45 am]
BILLING CODE 3410-16-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Parts 210 and 220]

National School Lunch and School Breakfast Programs; Notice to Commentors on the July 6 Competitive Foods Proposal

AGENCY: Food and Nutrition Service, USDA.

ACTION: Public notice to commentors.

SUMMARY: On August 30, it was discovered that a box containing a number of unlogged, unreviewed public comments on the competitive foods proposal was missing from FNS offices, without authorization or explanation. Provision is hereby publicly made for commentors to check receipt or resubmit comments if they believe their comments may have been received during the last week of August.

DATES: To be assured of consideration in the development of final regulations all comments on the issue, including those marked "duplicate copy," must be postmarked no later than October 6, 1979.

ADDRESS: Comments should be sent to Margaret O'K. Glavin, Director, School Programs Division, USDA, FNS, Washington, D.C. 20250, (202) 447-8130.

FOR FURTHER INFORMATION CONTACT: For further information, or to check receipt of comments, please contact the School Programs Division, USDA, FNS, Washington, D.C. 20250, (202) 447-9069.

SUPPLEMENTARY INFORMATION: The proposed rule was published July 6, 1979 (44 FR 40004), and established minimum nutritional standards for foods sold in competition with meals served in schools participating in the National School Lunch and School Breakfast Programs under the Child Nutrition Act of 1966, and the National School Lunch Act. The rule proposed to identify foods of minimal nutritional value and to restrict their sale until after the last lunch period. Public comments received during approximately the last week of August were removed without authorization from official government premises before the comments could be logged in the official public comment record or reviewed. Due to this unfortunate circumstance commentors who believe their comments on the proposed rule may have been received by FNS between August 22 and 29, 1979, may wish to (1) resubmit their comments and mark the comments with the words "duplicate copy" in a predominant location, or (2) check receipt of their comments by calling the School Programs Division at (202) 447-9069.

The Department does not anticipate that this action will result in any extension of the rule's anticipated effective date.

(Sec. 17, Pub. L. 95-166, 91 Stat. 1345, (42 U.S.C. 1779)).

Dated: September 17, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-29106 Filed 9-17-79; 10:30 am]
BILLING CODE 3410-30-M

Notices

Federal Register
Vol. 44, No. 182
Tuesday, September 18, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Ratemaking and Economic Regulation; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Ratemaking and Economic Regulation of the Administrative Conference of the United States, to be held at 2:00 p.m., Wednesday, September 19, 1979, at the office of the Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, D.C.

The Committee will meet to discuss Professor Alfred C. Aman's study of remedial orders at the Department of Energy.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least one day in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact William C. Bush at the Office of the Chairman of the Administrative Conference at (202–254–7020). Minutes of the meeting will be available on request.

Richard K. Berg,

Executive Secretary.

[FR Doc. 79–28866 Filed 9–17–79; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

1980 Upland Cotton Program; Proposed Determinations Regarding National Program Acreage, Program Allocation Factor, Set Aside, Additional Diversion, and Limitation on Planted Acreage

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed determinations.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1980-crop of upland cotton:

a. Established (target) price.
b. National program acreage.
c. Program allocation factor.
d. Voluntary reduction percentage.
e. Whether there should be a set-aside requirement and, if so, the extent of such requirement.
f. If a set-aside is required, whether there should be a limitation on planted acreage and, if so, the extent of such limitation.
g. Whether there should be a provision for additional diversion and, if so, the extent of such diversion and the payment therefor.

The above determinations are required to be made by the Secretary in accordance with provisions of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977 and the Act of May 15, 1978.

This notice invites written comments on these proposed determinations.

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

ADDRESS: Mr. Jeffress A. Wells, Director, Production Adjustment Division, ASCS, U.S. Department of Agriculture, 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 upland cotton are to be made pursuant to the Agricultural Act of 1949 (63 Stat. 1501, 7 U.S.C. 1421), as amended (hereinafter referred to as the "Act"):

a. *Established (Target) Price.* Section 103(f)(4) of the Act provides that the Secretary shall make available to producers payments for the 1980 crop of upland cotton based on an established (target) price. The 1979 established price computed according to the procedure specified in the Act was 56.6 cents per pound. This was raised to 57.7 cents under authority of section 1001(b) of the Food and Agriculture Act of 1977, as amended. The 1980 established price for upland cotton shall be the established price for 1979 (56.6 cents per pound) adjusted to reflect any change in the average adjusted cost of production for the two crop years 1978 and 1979 from the average adjusted cost of production for the two crop years 1977 and 1978. The adjusted costs of production for each of such years shall be determined by the Secretary on the basis of such information as he finds necessary and appropriate and shall be limited to (1) variable costs, (2) machinery ownership costs, and (3) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop. In no event, however, shall the established price for the 1980 crop be less than 51 cents per pound.

If a set-aside is in effect for the 1980-crop of upland cotton, the established price may be increased by an amount determined appropriate to compensate producers for participation in such set-aside. In determining the amount of any such increase, the changes in the cost of production resulting from participation in the set-aside must be taken into account. If the established price is increased for any other commodity for which a set-aside is in effect, the established price may also be increased for upland cotton in such amount as is determined necessary for effective operation of the program. Any increase in the established price must be adjusted to reflect, in whole or in part, any land diversion payments that may be made.

b. *National Program Acreage.* Section 103(f)(7) of the Act requires the Secretary to announce a national program acreage for the 1980 crop by December 14, 1979. Such national program acreage may, however, be subsequently revised for purposes of determining the allocation factor if the Secretary determines it necessary based on the latest information. Any revision shall be announced as soon as it has been made. The national program acreage shall be the number of

harvested acres the Secretary determines, based on the estimated weighted national average of the farm program payment yields for the 1980 crop, will produce the estimated quantity (less imports) that will be utilized domestically and for export during the 1980–81 marketing year (which begins August 1, 1980). The Secretary may make such adjustment in the national program acreage as he determines necessary, taking into consideration the estimated carryover supply, to provide for an adequate but not excessive total supply of cotton for the 1980–81 marketing year. In no event, however, shall the national program acreage be less than 10 million acres.

Currently, domestic mill use is estimated at 6.5 million bales and exports at 5.8 million bales during the 1980–81 marketing year. The 1980 national weighted average of the farm program payment yields is tentatively estimated at 535 pounds. Stocks on August 1, 1980 could range from about 3.9 to 7.0 million bales depending on production, mill use and exports during the 1979–80 marketing year. About 4.5 million bales is generally considered a desirable carryover level. Based on these tentative figures the 1980 national program acreage could range from 10.0 to about 11.4 million acres with 10.1 million the most likely level based on current estimates.

c. *Program Allocation Factor.* Section 103(f)(8) of the Act requires the Secretary to determine a program allocation factor for the 1980 crop. The allocation factor (not to exceed 100 percent) shall be determined by dividing the national program acreage for the 1980 crop by the estimated harvested acreage for such crop.

d. *Voluntary Reduction Percentage.* Section 103(f)(9) of the Act provides that the 1980 cotton acreage eligible for payment on a farm shall not be reduced by application of the allocation factor if the producers reduce the acreage of cotton planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in his proclamation of the national program acreage.

e. *Whether there should be a set-aside requirement and, if so, the extent of such requirement.* Section 103(f)(11)(A) of the Act requires the Secretary to provide for a set-aside of cropland if he determines that the total supply of upland cotton will, in the absence of such a set-aside, likely be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency.

If a set-aside of cropland is in effect, then as a condition of eligibility for loans, purchases, and payments on upland cotton producers must set aside and devote to conservation uses an acreage of cropland equal to such percentage of the acreage of upland cotton planted for harvest during the 1980 crop year as the Secretary determines (not to exceed 28 percent).

The need for a cotton set-aside in 1980 will depend on several factors. Production conditions throughout the world during the current 1979 crop year will have a significant impact on the actions which may need to be taken for the 1980 cotton crop. If favorable crop conditions exist for the 1979 cotton crop, ending U.S. cotton stocks as of August 1, 1980, could be around 7.0 million bales. This leval of stocks and continued favorable production conditions for the 1980 crop would indicate that a set-aside would be needed to adjust 1980 cotton supplies.

On the other hand, if worldwide production conditions during the balance of the current crop year are unfavorable, stocks at the end of the 1979–80 marketing year could be below 4.5 million bales. If these unfavorable conditions continued into 1980, no set-aside would be required for the 1980 cotton program.

Thus, additional information is needed concerning the size of the 1979 cotton crop as well as foreign production prospects and needs before a final decision can be made on the need for a set-aside for 1980.

f. *Whether the acreage planted to upland cotton should be limited and, if so, the extent of such limitation.* Section 103(f)(11)(A) of the Act also provides that the Secretary may limit the acreage planted to upland cotton if a set-aside is in effect. Any such limitation must be applied on a uniform basis to all cotton producing farms. Producers on a farm who knowingly plant cotton in excess of the permitted cotton acreage for the farm shall be ineligible for cotton loans or payments on that farm.

g. *Whether there should be a provision for additional diversion, and, if so, the extent of such diversion and the payment therefor.* Section 103(f)(11)(B) of the Act provides that the Secretary may make land diversion payments to producers of upland cotton, whether or not a set-aside for upland cotton is in effect, if he determines that such payments are necessary in adjusting the total national acreage of upland cotton to desirable goals. Such land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under such contracts may be determined through the submission of bids for such contracts by producers or through such other means as the Secretary determines appropriate.

In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary is required to limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

Prior to determining the provisions for the 1980 upland cotton program, 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 business hours (8:15 a.m. to 4:45 p.m.).

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An approved Draft Impact Analysis is available from Charles V. Cunningham, (ASCS) (202) 447–7873.

Signed at Washington, D.C., on September 12, 1979.

John W. Goodwin,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc 79–28762 Filed 9–17–79; 8:45 am]

BILLING CODE 3410–05–M

Forest Service

Canadian Superior Mining (U.S.) Ltd., Stibnite Project, Payette National Forest, Valley County, Idaho; Intent to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare (or cause to be prepared under agency direction) an environmental impact statement for Canadian Supervisor Mining (U.S.) Ltd., proposed Stibnite mining and heap leaching project (gold recovery), in the Payette National Forest, Valley County, Idaho. Canadian Superior has indicated that their program of exploration and development, which has been in progress since 1974, has shown the presence of commercial ore deposits in

the general Stibnite area sufficient to supply Superior's processing facilities with gold ore for seven to ten years. Using conventional mining techniques, the mining rate is anticipated to be 2,500 to 3,000 tons of ore and 9,000 tons of waste per day. The proposed operations would be carried on for approximately 150 days each year during the late spring, summer, and late fall.

A range of alternatives will be considered, one of which will be to not develop the mining and heap leaching project. Other alternatives will consider alternative leaching pad locations and waste disposal sites.

Initial issues and concerns have been recognized in an Environmental Analysis Report (EAR) prepared during analysis of a pilot program of mining and leaching conducted by Canadian Superior. If the two-year pilot program is expanded to a full-scale operation, the magnitude and duration of the proposed project's impacts will substantially increase. Initial approval for conduct of the pilot program did not involve or imply approval for a full-scale operation and in fact the probable need for more detailed study and prepartion of an environmental impact statement was recognized at this stage.

Public issues and management concerns identified and documented in the EAR for Test Mining and Leaching Operations by Canadian Superior included: water quality (especially as the East Fork of the South Fork of the Salmon River may be affected by the sodium cyanide used in the leaching process), wildlife and fisheries (most particular how a possible degradation of the system's water quality would impact salmon spawning and rearing), waste material disposal, transportation, and reclamation of both the waste materials and the open bench mine site. Since the river system is already receiving pollutant materials from past mining operations, any disturbance in the area will be cumulative and must be judged from this standpoint.

Early in the environmental analysis, Federal, State, and local agencies and other individuals or organizations who may be interested or affected by the decision will be invited to participate in the scoping process, which includes: (a) Identification of those issues to be addressed; (b) identification of those issues to be analyzed in depth; and (c) elimination from detailed study the issues which are not significant, or which have been covered by prior environmental review.

Initial public meetings to assist in identifying issues and concerns for this project will be held in McCall, Idaho, on October 3, 1979, at 7:30 p.m. in High School Cafeteria; Boise, Idaho, on October 4, 1979, at 7:30 p.m. in Hall of Mirrors Building, 700 West State Street; and Yellowpine, Idaho, on October 1, 1979, at 7:00 p.m. in the Community Hall. The basic approach in public involvement has been to contact all groups, delegations, agencies and individuals who might have an interest in the proposal and to solicit their involvement in the scoping process.

Mr. William B. Sendt, Forest Supervisor, is the responsible official, and District Forest Ranger Earl F. Dodds will be the Project Coordinator and can be contacted for further information on the environmental impact statement. Written comments and suggestions concerning the proposed project should be sent to the Forest Supervisor, Payette National Forest, McCall, Idaho 83638.

It is anticipated that preparation of the environmental impact statement will require about 12 months. The draft environmental impact statment is expected to be available for public review by July 1980. The final environmental impact statement is scheduled to be completed in September 1980.

Dated: September 7, 1979.

William B. Sendt,

Forest Supervisor.

[FR Doc. 79-28820 Filed 9-17-79; 8:45 am]

BILLING CODE 3410-11-M

Land and Resource Management Plan; California, Hawaii, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands-All Mineral, Esmeralda, Carson City, Douglas, and Washoe Counties, Nevada, Jackson County, Oregon; Intent to Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for the Regional Plan for the Pacific Southwest Region.

This plan will provide management direction for all National Forest System lands within the Pacific Southwest Region and program coordination for National Forest System, forestry research, and cooperative activities.

The Pacific Southwest Region includes:

(a) All of the State of California, except those portions of Rogue River, Siskiyou, and Toiyabe National Forests that are in California,

(b) Those portions of the State of Nevada where the Inyo National Forest and the Lake Tahoe Basin Management Unit are located,

(c) Hawaii, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands.

The Regional Plan will:

(a) Briefly describe the major public issues and management concerns,

(b) Briefly describe the forests and forest-range resources of the Pacific Southwest Region,

(c) Identify the goals of management for National Forest System lands within the Region,

(d) Describe the expected types and amounts of goods, services, and uses to be supplied (by decades) for individual National Forests, and

(e) Identify Regional management standards and guidelines (including monitoring and evaluation requirements).

The issues expected to be discussed in the development of this plan include, but are not limited to:

(a) The kinds and amounts of goods and services to be produced, and uses to be permitted on National Forest System lands in the Region,

(b) The public costs of providing these goods and services,

(c) The physical, biological, economic, and social effects associated with the production of goods and services.

The Regional Plan will be selected from a range of alternative plans which will include at least:

(a) A "no-action" alternative which represents continuation of present management direction, and

(b) Other alternatives formulated to respond to major public issues and management concerns.

As an early step in the planning, Federal, State, and local agencies, organizations, and individuals who may be interested in, or affected by the adopted plan, will be invited to participate in:

(a) Identification of the issues to be addressed,

(b) Identification of those issues to be analyzed in depth, and

(c) Elimination from detailed study those issues which are not significant, or which have been covered by prior environmental review, or are not within the scope of the Regional Plan.

To accomplish this, public meetings will be held as follows:

Date, location, and time

October 23, 1979: Oakland Auditorium, 10 Tenth Street, Oakland, CA—1:30 pm–4:00 pm; 7:30 pm–9:30 pm.

October 25, 1979: Pasadena Convention Ctr., 300 E. Greene Street, Pasadena, CA—1:30 pm–4:00 pm; 7:30 pm–9:30 pm.

October 30, 1979: Holiday Inn, Carol Room, 1900 Hilltop Drive, Redding, CA—1:30 pm–4:00 pm; 7:30 pm–9:30 pm.

November 5, 1979: Sacramento Community/Convention Center, 1100 14th Street,

Sacramento, CA—1:30 pm–4:00 pm; 7:30 pm–9:30 pm.

Written comments and suggestions concerning these items are encouraged. To be most useful, they should be received by the Regional Forester before January 7, 1980. The kind of additional public participation opportunities has not yet been determined. It will vary as the planning progresses and will be responsive to issues and concerns identified at the meetings listed above.

The estimated date for distribution of the Draft Environmental Impact Statement is September 1980. Following a three month public review period, a Final Environmental Impact Statement is expected to be prepared and distributed in April 1981.

R. Max Peterson, Chief of the Forest Service, is the responsible official for approval of the Plan.

For further information about the planning project, or the availability of the Environmental Impact Statements, or other documents relevant to the planning process, contact:

Katherine Clement, USDA-Forest Service, Pacific Southwest Region, Land Management Planning Staff, 630 Sansome Street, San Francisco, CA 94111 (415) 556–5938.

W. D. Williams,

Acting Chief, Forest Service.

Dated: September 12, 1979.

[FR Doc. 79-28916 Filed 9-17-79; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

East Kentucky Power Cooperative, Inc., Winchester, Ky.; 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 (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $57,242,000 to East Kentucy Power Cooperative, Inc., of Winchester, Kentucky, and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approximate amount of $7,271,000 to this cooperative. These loan funds will be used to finance the construction of approximately 179 miles of 69 kV transmission line, 63 miles of 138/161 kV transmission line, related facilities, previous loan deficiency, system improvements and environmental facilities at three generating stations, and headquarters 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. Ronald L. Rainson, President and General Manager, East Kentucky Power Cooperative, Inc., P.O. Box 707, Winchester, Kentucky 40391.

In order to be considered, proposals must be submitted October 18, 1979, to Mr. Rainson. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as the cooperative 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.

This notice supersedes the notice printed on July 5, 1978.

Dated at Washington, D.C., this 12th day of September 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79-28851 Filed 9-17-79; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Order 79-9-60]

Northeast/Ohio Valley-Florida Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (Order 79–9–60).

SUMMARY: The Board is proposing to grant, under section 401 of the Federal Aviation Act of 1958, as amended, the applications of Trans World Airlines, USAir (formerly Allegheny Airlines), and Ozark Air Lines, to the extent that they have requested unrestricted authority in the following markets: New York/Newark-Ft. Lauderdale/Orlando/Tampa, Philadelphia-Miami/Ft. Lauderdale/West Palm Beach, Washington/Baltimore-Miami/Ft. Lauderdale/Tampa, Indianapolis-Miami/Ft. Lauderdale/Tampa, Cincinnati-Miami/Ft. Lauderdale, Columbus-Miami/Ft. Lauderdale/Tampa, and St. Louis-Daytona Beach/Jacksonville/West Palm Beach/Sarasota; to grant the applications of Trans International Airlines, American Airlines, and Republic Airlines (formerly Southern Airways) for New York/Newark-Ft. Lauderdale authority; to grant the application of Trans International Airlines for New York/Newark-Orlando/Tampa authority; to grant the applications of USAir and Piedmont Aviation for Washington-West Palm Beach authority; and to grant any of the authority in issue to any other fit, willing and able carrier whose fitness can be established by officially noticeable data.

The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed in Appendix A, no later than October 15, 1979 a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All further applicants are directed to file applications, motions to consolidate, illustrative service proposals, environmental evaluations, and estimates of fuel to be consumed in the first year, no later than October 1, 1979.

ADDRESS: Objections to the issuance of a final order, or additional data as described above, should be filed in Docket 36590, which we have entitled the *Northeast/Ohio Valley-Florida Show-Cause Proceeding.* They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. In addition, objections should be served upon the persons listed in Appendix A.

FOR FURTHER INFORMATION CONTACT: Annie W. Stockvis, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5198.

The complete text of Order 79–9–60 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79–9–60 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: September 13, 1979.

Phyllis T. Kaylor,

Secretary.

Appendix A

Service List

A. All certificated carriers.

B. Mayors of—	C. Airport Managers of—
Baltimore	Baltimore-Washington Int'l.
Boston	Logan International
Chicago	Chicago-O'Hare Int'l.
	Chicago-Midway
Cincinnati	Greater Cincinnati
Columbus	Port Columbus Int'l.
Daytona Beach	Daytona Beach Regional
Ft. Lauderdale	Ft. Lauderdale-Hollywood Int'l.
Ft. Myers	Page Field
Indianapolis	Indianapolis International
Jacksonville	Jacksonville International
Miami	Miami International
New York	John F. Kennedy Int'l.
	La Guardia
Newark	Newark International
Orlando	Orlando International
Philadelphia	Philadelphia International
Pittsburgh	Greater Pittsburgh Int'l.
St. Louis	Lambert-St. Louis Int'l.
Sarasota	Sarasota-Bradenton
Tampa	Tampa International
Washington, D.C.	Washington National
	Dulles International
West Palm Beach	Palm Beach Int'l.

D. Governors of—	E. Transportation Commissions—
Florida	Florida Public Service Commission
Indiana	Indiana Aeronautics Commission
Maryland	Maryland Dept. of Transportation, State Aviation Administration
Massachusetts	Massachusetts Aeronautics Commission
	Massachusetts Port Authority
Missouri	Missouri Dept. of Transportation, Aviation Section
New Jersey	New Jersey Dept. of Transportation, Division of Aeronautics
New York	New York State Dept. of Transportation, Airport Development Section
	Port Authority of New York & New Jersey
Ohio	Ohio Dept. of Transportation, Division of Aviation
Pennsylvania	Pennsylvania Dept. of Transportation, Bureau of Aviation

[FR Doc. 28868 Filed 9-17-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Massachusetts 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 Massachusetts Advisory Committee of the Commission will convene at 4:00 P.M. and end at 6:00 P.M. on October 17, 1979 at 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is to discuss (a) the Affirmative Action Program and (b) the ESAA Program.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 12, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 28831 Filed 9-17-79; 8:45 am]

BILLING CODE 6335-01-M

North Carolina 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 North Carolina Advisory Committee of the Commission will convene at 11:30 A.M. and end at 3:00 P.M. on October 9, 1979 at the Ramada Inn, Crabtree Valley Mall, 3020 Arrow Drive, Room C, Raleigh, North Carolina 27612. Persons wishing to attend this open meeting should contact the Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue N.E., Atlanta, Georgia 30303.

The purpose of this meeting is to discuss plans for program activity for Fiscal Year 1980 and to conclude the North Carolina Migrant Study.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 12, 1979.

John I. Binkley

Advisory Committee Management Officer.

[FR Doc. 79-28832 Filed 9-17-79; 8:45 am]

BILLING CODE 6335-01-M

Tennessee 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 Tennessee Advisory Committee of the Commission will convene at 4:30 P.M. and end at 8:30 P.M. on October 12, 1979, at the Ramada Inn Downtown, 160 Union Avenue, Plantation Room, Memphis, Tennessee.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue N.E., Atlanta, Georgia 30303.

The purpose of this meeting is to receive a final status report on the Police/Community Relations Project of Memphis and plan programs for Fiscal Year 1980.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 12, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-28833 Filed 9-17-79; 8:45 am]

BILLING CODE 6335-01-M

Utah 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 Utah Advisory Committee of the Commission will convene at 7:00 P.M. and will end at 10:00 P.M. on October 1, 1979 in the Faculty Lounge of the Social Work Building, University of Utah, Salt Lake City, Utah.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to discuss the four corner's project and to plan a press conference to release the Energy Resource Development report.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 12, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-28834 Filed 9-17-79; 8:45 am]

BILLING CODE 6335-01-M

West Virginia 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 Fact finding meeting of the West Virginia Advisory Committee of the Commission will convene at 1:00 P.M. and end at 5:00 P.M. on October 4, 1979, in the Conference Room, Second Floor, West Virginia Human Rights Commission, 1036 Quarrier Street, Charleston, West Virginia 25305.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss National, State, and local Civil Rights issues as they affect West Virginia and its local jurisdictions. Particular focus will be on the Administration of Justice and Public Education.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 12, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-28835 Filed 9-17-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on Population Statistics; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that the Census Advisory Committee on Population Statistics will convene on October 12, 1979, at 9:40 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee on Population Statistics advises the Director, Bureau of the Census, on current programs and on plans for the decennial census of population.

The Committee is composed of five members appointed by the Secretary of Commerce, and 10 members designated by the President of the Population Association of America from the membership of that Association.

The agenda for the meeting, which is scheduled to adjourn at 4:15 p.m., is: (1) Introductory remarks; (2) status of 1980 census planning; (3) 1980 census promotion plant; (4) new industry and occupation classification system; (5) measures of socioeconomic status; (6) race and ethnic statistics; (7) 1980 versus 1970 tables on detailed population characteristics; (8) plans for the 1985 census; (9) developments in subnational population projections, and (10) Committee recommendations, and agenda for the next meeting.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Dr. Paul C. Glick, Room 2011, Federal Building 3, Suitland Maryland. (Mailing address: Washington, D.C. 20233). Telephone (301) 763-7030.

Dated: September 13, 1979.

Vincent P. Barabba,

Director, Bureau of the Census

[FR Doc. 79-28859 Filed 9-17-79; 8:45 am]

BILLING CODE 3510-07-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council and Scientific and Statistical Committee and Advisory Panel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) and its Scientific and Statistical Committee (SSC) and Advisory Panel (AP) will hold joint and separate meetings.

DATES: The Council meeting will convene on Thursday, October 4, 1979, at 8:30 a.m. and will adjourn on Friday, October 5, 1979, at 5 p.m. at the Centennial Building Harbor Drive, Sitka, Alaska. The SSC meeting will convene on Tuesday, October 2, 1979, at 1:30 p.m. and will adjourn at 5 p.m. reconvening on Wednesday, October 3, 1979, at 8 a.m. and will adjourn upon completion of business at the Centennial Building, Harbor Drive, Sitka, Alaska. The AP meeting will convene on Tuesday, October 2, and Wednesday, October 3, 1979, at 9:30 a.m. adjourning at 5 p.m. on both days at the Centennial Building, Harbor Drive, Sitka, Alaska. All meetings may be lengthened or shortened depending upon the progress on the agenda. The meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, Post Office Box 3136DT, Anchorage, Alaska 99510, Telephone: (907) 274-4563.

Proposed Agendas follows:

Council

Special Note: Preregistration (except in special or unusual cases) will be required for all public comments which pertain to a specific agenda topic. Preregistration is accomplished by informing the Agenda Clerk—by 10 a.m. of The First Day—of the agenda item to be addressed and the time requested. Preregistration and public comment may be scheduled for: *1 Old Business, 2 Fishery Management Plans (FMP's),* and *3 New Business* agenda items. There will be a general comment period (Agenda 6) scheduled for late afternoon of the second day for testimony on matters not on the current agenda. Ten (10) minutes will be allotted for each person or group. Regular Council business and reports will be heard: Executive Director's Report, Alaska Department of Fish & Game (ADF&G) reports, National Marine Fisheries Service (NMFS) reports on foreign fishing activities, U.S. Coast Guard (USCG) report of enforcement and surveillance activities, SSC and AP reports on nonagenda items. The remaining agenda items will be discussed by the Council with each item prefaced by reports from the SSC and AP, with comments allowed by the general public. These agenda items are: (1) Old Business: (a) Fishery Conservation and Management Act (FCMA) Oversight Hearings, and (b) St. George Basin oil lease sale. (2) Fishery Management Plans (FMP's): (a) Troll Salmon FMP Amendments. Consideration of an Amendment dealing with time and area closures, a four-line limit, the high seas filleting of salmon, a prohibition on hand trolling in the Fishery Conservation Zone (FCZ), and power troll limited entry; (b) Tanner Crab FMP Amendments. Amendments are proposed generally reducing the ABC/Optimum Yield (OY) for *C. bairdi* and *C. opilio* in the Bering Sea. The Amendment will increase Domestic Annual Harvest (DAH) and likely reduce or perhaps eliminate Total Allowable Level of Foreign Fishing (TALFF); (c) Gulf of Alaska Groundfish FMP update and possible Amendments. The status of Amendment 7 (approved at the August Council meeting) will be discussed. In addition, a supplementary part of that Amendment has been proposed to change OY's for squid, other rockfish, other species, and Atka mackerel to Gulf-wide OY's. Consideration of management philosophies and policies for trawl and longline fisheries; (d) Halibut Draft FMP update, guideline planning. Consideration will be given action that may have to be initiated to consider a moratorium on the issuance of halibut permits for 1980; (e) Herring Draft FMP schedule for public hearings will be presented; (h) Bering Sea/Aleutian Islands Groundfish FMP update. The status of the Amendment approved at the August meeting will be discussed. (3) NEW BUSINESS: Council and SSC Charters reviewed. (4) CONTRACTS,

REPORTS, PROPOSALS; (5) Other Council-related business; (6) Public comment period; and (7) Announcement of future Subcommittee meetings, close of nominations to AP, and appointments to various subcommittees.

Advisory Panel

(1) FCMA Oversight Hearings, and St. George Basin oil lease sale; (2) FMP's: (a) Troll Salmon FMP Amendments, (b) Tanner Crab Amendments, (c) Gulf of Alaska Groundfish FMP update and possible Amendments, (d) Halibut draft FMP update and guideline planning, (e) Herring draft FMP, schedule for public hearings, (f) Bering Sea/Aleutian Islands Groundfish FMP update; (3) Contracts, Reports, Proposals; and (4) Other Council-related business.

Scientific and Statistical Committee

(1) Tanner Crab FMP Amendment; (2) Troll Salmon FMP Amendment; (3) King Crab update report; (4) SSC Charter review, with consideration of 11th member; (5) FMP Development Team membership review; (6) FCMA Oversight Hearings, Report; (7) Contracts, Reports, Proposals: (a) Requests for Proposals (RFP) "To assess the Distribution and Abundance of Certain Marine Mammal Populations (walrus) in Bristol Bay," (b) RFP "A Study and Analysis of Troll Salmon Fisheries Data by ADF&G," (c) "Ocean Research Technology Planning" paper review, (d) Troll Fisheries Data Analysis Contract Report, (e) RFP "To Key-punch Halibut Fish Ticket Data for 1975–78." (8) Scheduling Subcommittee Report; and (9) Other Council-related business.

Dated: September 11, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-28804 Filed 9-17-79; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Inactivation of Active Air Force Units at Duluth International Airport, MN

The following is the Environmental Determination, dated August 25, 1979, for the Proposed Inactivation of Active Air Force Units at Duluth International Airport, MN.

A. *Description of Proposed Action:* The U.S. Air Force proposes to inactivate the 4787 Air Base Group at Duluth International Airport (IAP) concurrent with the inactivation of the Duluth (23 Air Division) Semi Automatic Ground Environment (SAGE) scheduled for 1982. This proposal would result in the elimination of approximately 600 military and 300 civilian authorizations. The Air National Guard 148 Tactical Reconnaissance Group will continue normal operations.

B. *Alternatives:* The only alternative is to take no action, and retain the 4787 Air Base Group. The SAGE Center would still be inactivated.

C. *Biophysical Environmental Impact Analysis:* The analysis of potential biophysical environmental impacts is documented in a Formal Environmental Assessment (FEA). This analysis is based on the cumulative impact of the SAGE Center and the Air Base Group inactivations. A summary of the most important findings follows:

1. *Solid Waste:* Solid waste generation would decrease by approximately nine tons/day extending the life of the Duluth landfill by three percent.

2. *Wastewater:* Wastewater generation will decrease in the region of influence (ROI) by approximately 0.5 percent and no significant underloading of receiving sewage treatment plants are expected. However, some odor problems may result from underloading about one mile of the interceptor sewer to which the base is connected. Should this condition arise, it could be eliminated by occasional flushing of the line until base facilities are reutilized by others.

3. *Air:* Current air emissions from the base will largely be eliminated causing minor but unmeasurable improvements to the local air quality.

4. *Secondary Impacts:* Local socio-economic changes from this action are not expected to produce any indirect impacts of significance on the biophysical environment. Earlier regional declines in the annual population and per capita income growth rates as recent as 1975 were greater than any changes expected from this action. There are no local indications that these earlier economic declines caused any significant effects on the biophysical environment. Additionally, our Local Economic Consequences Study did not identify any instances where financing or scheduling of future projects related to environmental controls or improvements would be affected by this action.

D. *Finding of No Significant Impact:* After careful review of the FEA, I have concluded that the proposed inactivation of the active Air Force units at Duluth IAP will not constitute a major Federal action having a significant adverse impact on the quality of the affected environment (Duluth-Superior metropolitan area), nor is it likely to be controversial there with respect to its biophysical environmental impacts.

Thus, the requirements of the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) regulations and Air Force Regulation 19–2 have been complied with, and a Draft Environmental Impact Statement need not be filed with the U.S. Environmental Protection Agency.

Any comments or questions should be directed to the Deputy for Environment and Safety, Office of the Secretary of the Air Force, Room 4C–885, the Pentagon, Washington, D.C. 20330, telephone: (202) 697–9207.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-28821 Filed 9-17-79; 8:45 am]

BILLING CODE 3910-01-M

Proposed Inactivation of Active Air Force Units at Hancock Field, N.Y.

The following is the Environmental Determination, dated August 30, 1979, for the Proposed Inactivation of Active Air Force Units at Hancock Field, N.Y.

A. *Description of Proposed Action:* The U.S. Air Force proposes to inactivate the 4789 Air Base Group at Hancock Field concurrent with the inactivation of the Hancock (21 Air Division) Semi Automatic Ground Environment (SAGE) scheduled for 1982. This proposal coupled with the possible inactivation of the Northeast Telecommunications Switching Center would result in the elimination of approximately 376 military and 290 civilian authorizations. The Air National Guard 174 Tactical Fighter Group will continue normal operations.

B. *Alternatives:* The only alternative is to take no action, that is retain the 4789 Air Base Group and the Northeast Telecommunications Switching Center. The SAGE Center would still be inactivated.

C. *Biophysical Environmental Impact Analysis:* The analysis of potential biophysical environmental impacts is documented in a Formal Environmental Assessment (FEA). The analysis is based on the cumulative impact of the SAGE Center, the Air Base Group, and the Northeast Telecommunications Switching Center inactivations. A summary of the most important findings follows:

1. *Solid Waste:* Solid waste generation would decrease by approximately five tons/day extending the life of the Cirero Landfill by 1 percent.

2. *Wastewater:* Wastewater generation will decrease in the region of influence by approximately 0.45 percent.

No significant underloading of interceptor sewer lines or receiving plants will result.

3. *Air:* Current air emissions from the base will largely be eliminated causing minor but unmeasurable improvements to the local air quality.

4. *Secondary Impacts:* Local socioeconomic changes from this action are not expected to produce any indirect impacts of significance on the biophysical environment. This is based primarily on the findings that the regional population growth is about 0.5 percent per annum and this action would decrease the total regional population by only about 0.5 percent.

C. *Finding of No Significant Impact:* After careful review of the FEA, I have concluded that the proposed inactivation of the active Air Force units at Hancock Field will not constitute a major Federal action having a significant adverse impact on the quality of the affected environment of Onondaga County (the region of influence), nor is it likely to be controversial there with respect to its biophysical environmental impacts.

Thus, the requirements of the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) regulations, and Air Force Regulation 19–2 have been complied with and a Draft Environmental Impact Statement need not be filed with the U.S. Environmental Protection Agency.

Any comments or questions should be directed to the Deputy for Environment and Safety, Office of the Secretary of the Air Force, Room 4C–885, the Pentagon, Washington, D.C. 20330, telephone: (202) 697–9297.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79–28822 Filed 9–17–79; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

September 11, 1979.

The USAF Scientific Advisory Board Ad Hoc Committee on Attack of Mobile Forces (Night/Adverse Weather) will meet on October 18–19, October 29–30, and November 12–13, 1979 in the Pentagon. The meetings will start at 9:00 a.m. and adjourn at 5:00 p.m. each day.

The Committee will review the Air Force operational concepts to achieve this mission. The meetings will be closed to the public in accordance with section 522b(c), Title 5, United States Code, specifically subparagraph (1).

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79–28823 Filed 9–17–79; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Objection to Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Week of August 6 through August 10, 1979

Notice is hereby given that during the week of August 16 through August 10, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before October 9, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). Within 30 days of the publication of this notice, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed request to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding, this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

Dated: September 11, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Bridewell, Cobb, Cobb, Jeffers & Whyte, Dallas, Tex., DRO–0319, crude oil producer

On August 9, 1979, the following parties filed a Notice of Objection to a Proposed Remedial Order which the DOE Region VI District Office of Enforcement issued to Bridewell, Cobb, Cobb, Jeffers & Whyte (Bridewell et al.) on July 17, 1979:

Billy Bridewell, 706 Fair Foundation Building, Tyler, Texas 75702.
Bert E. Cobb, c/o Walter P. Gibson, Citizens First National Bank, Trust Department, Tyler, Texas 75702.
William J. Cobb, 478 Fair Foundation Building, Tyler, Texas 75702.
Eugene Jeffers, P.O. Box 6688, Tyler, Texas 75702.
G. Vernon Whyte, 478 Fair Foundation Building, Tyler, Texas 75702.

In the Proposed Remedial Order the District Office of Enforcement found that during September 1, 1973 to August 31, 1976, Clemco, Inc. (Clemco), previous operator of the Don Graham Lease for Bridewell et al., violated DOE regulations relating to the sales of certain domestic crude oil. According to the Proposed Remedial Order, the pricing violation resulted in overcharges of $168,090.44 to the Standard Oil Company of Indiana, the purchaser of crude oil from the Don Graham Lease.

D & C Exxon Service Center, Inc., Maple, N.J., DRO–0313, motor gasoline

On August 6, 1979, D & C Exxon Service Center, Inc., 1796 Springfield Ave., Maplewood, New Jersey filed a Notice of Objection to (an Interim Remedial Order for Immediate Compliance) which the DOE New Jersey State Office of Enforcement issued to the firm on July 25, 1979.

In the IROIC the State found that on June 30, 1979, D & C Exxon overcharged its customers 17.2¢ per gallon for regular leaded motor gasoline, 9.7¢ for premium leaded motor gasoline, and 12.2¢ for regular unleaded motor gasoline.

According to the IROIC the D & C Exxon's violation resulted in $6,880 of fines.

Foster Oil Company, Richmond, Mich., DRO–0414, motor gasoline

On August 6, 1979 Foster Oil Company, 36065 Water Street, Richmond, Michigan 48062, filed a Notice of Objection to a Proposed Remedial Order that the Department of Energy Central District Office of Enforcement issued to it on July 11, 1979. The Proposed Remedial Order found that during the period November 1973 through April 1979, Foster committed pricing violations of $107,679.58 in connection with the sale of No. 1 and No. 2 fuel oils, and motor gasoline in the State of Michigan.

New Tip Top Corp., Newark, N.J., DRO–0324, motor gasoline

On August 10, 1979, New Tip Top Corporation, 1067 Raymond Boulevard, Newark, New Jersey 07102 filed a Notice of Objection to which the New Jersey Department of Energy issued to the firm on July 25, 1979.

In the IROIC the New Jersey Department of Energy found that on July 10, 1979, New Tip Top Corporation charged more than the maximum lawful selling price for motor gasoline. It was also found that New Tip Top Corporation failed to maintain books and records to support the lawfulness of the price charged in all sales of gasoline.

According to the IROIC the New Tip Top Corporation violation resulted in .069 per gallon of overcharges for regular motor gasoline, .059 per gallon of overcharges for unleaded motor gasoline, and .041 per gallon of overcharges for premium unleaded motor gasoline.

Aurelio Rodgrigues t/a Magnolia Sunoco, Elizabeth, N.J., DRO–0312, retailer

On August 6, 1979, Aurelio Rodrigues t/a Magnolia Sunoco filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance which the Department of Energy, Northeast District issued on July 24, 1979.

In the IROIC the Enforcement District found that the firm was charging prices for motor gasoline in excess of its maximum allowable selling prices. The firm was therefore ordered to reduce its prices to their maximum allowable levels, to make required postings of maximum lawful prices, and to maintain records sufficient to justify increased product and non-product costs.

Northview, Inc. Paramus, N.J., DRO-0329, motor gasoline

On August 8, 1979, Ron Wermuth d/b/a Northview, Inc., 361 Route 17 South, Paramus, New Jersey 07652, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the New Jersey Department of Energy issued to him on July 24, 1979. In the IROIC, the New Jersey DOE found that on July 9, 1979, Northview, Inc. violated 10 CFR 212.93 by charging prices for certain grades of motor gasoline which exceeded its maximum lawful selling prices on that date. The New Jersey DOE also found that Northview, Inc. violated 10 CFR 212.129 by charging prices for certain grades of motor gasoline which exceeded its maximum lawful selling prices on that date. The New Jersey DOE also found that Northview, Inc. violated 10 CFR 212.129 by failing to make the required posting of its maximum lawful selling prices and violated 10 CFR 210.92 and 212.93 by failing to maintain records to support the lawfulness of it selling prices for sales of gasoline on that date. In the IROIC, the New Jersey DOE ordered Northview, Inc. to reduce its prices to the established lawful level, to make the proper posting of prices, and to maintain required records or to justify within five days the lawfulness of its July 9, 1979 selling prices.

Shell 17 Inc., Paramus, N.J., DRO-0321, motor gasoline

On August 8, 1979, Ron Wermuth d/b/a Shell 17, Inc., 612 Route 17 North, Paramus, New Jersey 07652, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the New Jersey Department of Energy issued to the firm on July 24, 1979. In the IROIC, the New Jersey DOE found that on July 9, 1979, Shell 17, Inc. violated 10 CFR 212.93 by charging prices for certain grades of motor gasoline which exceeded its maximum lawful selling prices on that date and that Shell 17, Inc. had violated 10 CFR 210.92 and 212.93 by failing to maintain records to support the lawfulness of its selling prices for sales of gasoline on that date. In the IROIC, the New Jersey DOE ordered Shell 17, Inc. to reduce its prices to the established lawful level and to maintain required records or to justify within five days the lawfulness of its July 9, 1979 selling prices.

Shell 17 Inc.—2, Paramus, N.J., DRO-0328, motor gasoline

On August 8, 1979, Ron Wermuth d/b/a Shell 17, Inc., 655 Route 17 South, Paramus, New Jersey 07652, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the New Jersey Department of Energy issued to the him on July 24, 1979. In the IROIC, the New Jersey DOE found that on July 9, 1979, Shell 17, Inc. violated 10 CFR 212.93 by charging prices for certain grades of motor gasoline which exceeded its maximum lawful selling prices on that date and that Shell 17, Inc. had violated 10 CFR 210.92 and 212.93 by failing to maintain records to support the lawfulness of its selling prices for sales of gasoline on that date. In the IROIC, the New Jersey DOE ordered Shell 17, Inc. to reduce its prices to the established lawful level and to maintain required records or to justify within five days the lawfulness of its July 9, 1979 selling prices.

Southside Getty, Paramus, N.J., DRO-0330, motor gasoline

On August 8, 1979, Ron Wermuth d/b/a Southside Getty, 357 Route 17 South, Paramus, New Jersey 07652, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the New Jersey Department of Energy issued to him on July 24, 1979. In the IROIC, the New Jersey DOE found that on July 9, 1979, Southside Getty violated 10 CFR 212.93 by charging prices for certain grades of motor gasoline which exceeded its maximum lawful selling prices on that date.The New Jersey DOE also found that Southside Getty violated 10 CFR 212.129 for failing to make the required posting of its maximum lawful selling prices and violated 10 CFR 210.92 and 212.93 by failing to maintain records to support the lawfulness of its selling prices for sales of gasoline on that date. In the IROIC, the New Jersey DOE ordered Southside Getty to reduce its prices to the established lawful level, to make the proper posting of prices, and to maintain the required or to justify within five days the lawfulness of its July 9, 1979 selling prices.

Robert Whiting/RMS Enterprises, Inc., Union, N.J., DRO-0315, motor gasoline

On August 6, 1979, Robert Whiting (Whiting), President of RMS Enterprises, Inc., 1050 Salem Road, Union, New Jersey 07083 filed a Notice of Objection (an Interim of Objection for Immediate Compliance) which the Assistant Commissioner for Regulatory Affairs of the New Jersey Department of Energy issued to the firm on July 24, 1979.

In the IROIC the Assistant Commissioner found that during July 1979, Whiting committed pricing violations in the State of New Jersey in connection with the sale of motor gasoline. The IROIC orders Whiting to immediately reduce his selling prices for motor gasoline to the levels set forth in the IROIC, to properly post his maximum lawful selling price, and to properly maintain required records in accordance with the provisions of Sections 210 and 212 of the Mandatory Petroleum Allocation and Price Regulations.

Young Refining Corp. Washington, D.C., DRO-0318, Nos. 2, 3, & 4 fuel oil, naphtha

On August 8, 1979, Young Refining Corporation, Bracewell & Patterson, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast District Office of Enforcement issued to the firm on July 6, 1979. In the PRO the Southeast District found that during the period November 1, 1973 through April 30, 1974, Young violated the provisions of 6 CFR, Part 150 and 10 CFR, Part 212 by selling refining petroleum products at prices which were in excess of the regulated ceiling prices. According to the PRO the Young Refining Corporation violation resulted in $178,091.00 of overcharges.

[FR Doc. 79-28892 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

Requests for Interpretation Filed With the Office of General Counsel; Months of June and July 1979

Notice is hereby given that during the months of June and July 1979, the requests for interpretation listed in the Appendix to this notice were filed pursuant to 10 CFR Part 205, Subpart F with the Office of General Counsel, Department of Energy (DOE). Notice of subsequently received requests will be published at the end of each calendar month. Copies of the request for interpretation listed herein are on file in and should be obtained from the DOE's Public Reading Room, Information Access Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, SE., Washington, D.C. 20585, (202) 252-5968.

The statement of issue that follows each request for interpretation listed in the Appendix is not intended to be definitive or final. Rather, the issue statement should be regarded as the initial restatement by the DOE of the question that appears to have been presented for resolution. The issue may, of course, be refined and modified during the interpretative process.

Interested parties may submit written comments on the listed interpretation requests within 30 days of the publication of this notice. Comments should be identified on the outside envelope and on documents submitted with the file number of the interpretation request and all comments should be filed with the Office of General Counsel, Department of Energy, Room 1111, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, Attention: Diane Stubbs. Aggrieved parties, as defined in 10 CFR 205.2, will continue to receive actual notice of pending interpretation requests in accordance with the current practice of the Office of General Counsel.

For further information contact Diane Stubbs, Office of General Counsel, 12th and Pennsylvania Avenue, NW., Room 1111, Washington, D.C. 20461, (202) 633-9070.

September 11, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

[FR Doc. 79-28893 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

Appendix.—*List of Requests for Interpretation Received by the Office of General Counsel*

[Months of June and July 1979]

Date Received	Name and Location of Requestor	File No.
June 1	Basin, Inc., Alan L. Mintz, Esq.; Robert G. Szabo. Esq.; Van Ness, Feldman & Sutcliffe; 1220 19th Street, NW., Suite 500, Washington, D.C. 20036.	A–418
	Issue: Are a producer and refiner prohibited by 10 CFR 210.62 from entering into processing agreements pursuant to which the producer terminates his existing crude oil supplier/purchaser relationship and shares the increased value of the refined crude oil with the refiner who may or may not market the refined petroleum products?	
June 1	Basin, Inc. (same as in A–418)	A–419
	Issue: May a producer in 1979 establish a relationship with a new reseller and sell crude oil at the maximum lawful price to that reseller? May the reseller in turn resell the crude oil for a price which includes a "permissible average markup" provided for in 10 CFR 212.182 and 212.183?	
June 4	Econ-O-Gas, Inc., Bob Williamson, P.O. Box 948, Temple, Texas 76501.	A–420
	Issue: May a supplier change the calculation of daily allotments of product rather than monthly, imposing additional product transportation requirements, and altering previous accounting practices violate the normal business practice requirements of § 210.62 and the allocation requirements of Part 211?	
June 4	Charter Oil Company, Richard D. Worley, 208 Laura Street, Jacksonville, Florida 32202.	A–421
	Issue: Does the term "foreign crude oil" encompass imported unfinished oils and, if so, are the increased costs of processing imported unfinished oils permissible increased costs of crude oil under the "A" factor, for purposes of the refiner price rule? (10 CFR 212.31 and 212.83)	
June 7	Champlin Petroleum Co.; Joseph C. Bell, Esq.; Hogan & Hartson; 815 Connecticut Avenue, NW., Washington, D.C. 20036.	A–423
	Issue: For the purpose of imputed increased cost recoveries under 10 CFR 212.83(h) (the equal application rule), may a daily accounting period be used?	
June 7	Baker Industries, Inc., Charles R. Schneider, 1633 Littleton Road, Parsippany, New Jersey 07054.	A–424
	Issue: Does a firm offering protective services, such as fire detection and transportation of cash for the Federal Reserve System, fall within the definition of "emergency services" for purposes of 10 CFR 211.103(c) and 570.2?	
June 12	American Car Rental Association, J. Michael Payne, 1750 Pennsylvania Avenue, NW., Washington, D.C. 20006.	A–425
	Issue: For purposes of the Mandatory Petroleum Allocation Regulations, is a car or truck rental company a wholesale purchaser-consumer as that term is defined in 10 CFR 211.51?	
June 26	Deans Power Oil Corporation; R. Timothy Columbus, Esq.; Collier, Shannon, Rill, Edwards & Scott; 1055 Thomas Jefferson Street, NW., Washington, D.C. 20007.	A–426
	Issue: Where a supplier/purchaser relationship for the sale of motor gasoline is in effect pursuant to 10 CFR 211.9, does the normal business practices rule set forth in 10 CFR 210.62(a) allow the supplier automatically to terminate deliveries to the purchaser if the purchaser fails to maintain the credit practices associated with the sales of product on May 15, 1973?	
June 18	Great Southern Oil & Gas Co., Inc., Fred Martin, P.O. Box 52707, Oil Center Station, Lafayette, Louisiana 70705.	A–427
	Issue: Does crude oil produced from a lease entered into after January 1, 1979, qualify as newly discovered crude oil under 10 CFR 212.79(b) where there was no production from the lease during calendar year 1978?	

Appendix.—*List of Requests for Interpretation Received by the Office of General Counsel*—Continued

[Months of June and July 1979]

Date Received	Name and Location of Requestor	File No.
June 19	Dow chemicals, U.S.A., Bill Leathers, Esq., 400 West Belt South, Houston, Texas 77042.	A–428
	Issue: If a firm, as a consumer, is entitled to a 100 percent refund of overcharges according to the terms of a consent order, can the firm be limited to a 30 percent refund because it is also a refiner?	
June 19	Association of Home Appliance Manufacturers; Theodore F. T. Crolius, Esq.; Pierson, Semmes, Crolius and Finley; 1054 31st Street, NW., Washington, D.C. 20007.	A–429
	Issue: (1) Does a Federal minimum appliance efficiency standard supersede a previously adopted State standard at the time the Federal standard is prescribed or as of the effective date of the Federal standard? (EPCA, § 327)	
	(2) If an appliance efficiency standard prescribed prior to January 1, 1978, has been amended by rule after January 1, 1978, is the amendment preempted?	
June 19	LIDO Company of New England, Carl A. Pescosolido, New Zealand Road, Seabrook, New Hampshire 03874.	A–430
	Issue: May a branded wholesale purchaser-reseller that had multiple suppliers during the base period and on February 28, 1979, terminate certain of those supplier-purchaser relationships and designate as its sole base period supplier the firm whose brand it was selling on February 28, 1979 under 10 CFR 211.105(d)?	
June 22	Anheuser-Busch, Inc.; Bruce A. Beckman, Esq.; Adams, Duque & Hazeltine; P.O. Box 54795, Los Angeles, California 90054.	A–431
	Issue: Do sections 212(d) and 213(a)(1) of the Powerplant Industrial Fuel Use Act of 1978, 42 U.S.C. 8301, *et seq.*, and 10 CFR Part 505 authorize the DOE to require new major fuelburning installations to utilize petroleum or natural gas in a mixture which exceeds the minimum amount necessary for reliable operation in order to qualify for a permanent exemption from the Act?	
June 22	Robert A. Mason, 2560 Liberty Tower, Oklahoma City, Oklahoma 73102.	A–432
	Issue: Where a lease was part of a unitized property that was abandoned and the individual lease is now producing crude oil, how is the base production control level for the lease calculated?	
June 26	Walters Oil, William Walters, 1000 Bushkill Drive, Easton, Pennsylvania 18042.	A–433
	Issue: May a wholesale purchaser apply to its supplier, pursuant to 10 CR 211.104, for an adjustment of its base period volume to compensate for unusual growth at one of its retail outlets?	
June 26	F. M. Brown's Sons, Inc., H. J. Brown, Sinking Springs, Pennsylvania 19608.	A–434
	Issue: Does manufacturing and transporting animal feed fit within the definition of agricultural production (10 CFR 211.51) for purposes of obtaining preferential motor gasoline allocations under 10 CFR 211.103?	
June 26	E-Z Serve, Inc., Gary A. Morrison, P.O. Box 3579, 901 South First, Abilene, Texas 79604.	A–435
	Issue: Did Ranger Energy Company violate 10 CFR 211.11 and 211.106 regarding the transfer of allocation entitlements when it sold retail motor gasoline outlets to E-Z Serve?	
June 27	Gulf Oil Corporation, Robert F. Ochs, Esq., P.O. Box 3725, Houston, Texas 77001.	A–436
	Issue: Would a refiner be in violation of the legal allocation fraction provisions of 10 CFR 211.10(b) by increasing its fraction for motor gasoline within a State in response to that State's release to the refiner of a given percentage of the State's set-aside motor gasoline?	

Appendix.—*List of Requests for Interpretation Received by the Office of General Counsel*—Continued

[Months of June and July 1979]

Date Received	Name and Location of Requestor	File No.
May 30	West Side, A. E. Birdseye, 1700 Second Street, SW., Rochester, Minnesota 55901.	A–438
	Issue: Is a firm that never takes physical possession of motor gasoline sold to a purchaser but bills and receives payment from the purchaser for that product a wholesale purchaser-reseller and that purchaser's base period supplier?	
July 5	Dialcab Taxi Owners Guild; Cloverdale Two Way Radio Taxi Association; CAB-CA Two Way Radio, Inc.; William N. Walker, Esq.; Mudge Rose Guthrie & Alexander; 20 Broad Street, New York, New York 10005.	A–439
	Issue: Does a nonprofit taxi cab association violate the anti-discrimination provisions of the normal business practices rule as set forth in 10 CFR 210.62(b) where the association has leased a retail sales outlet and retained the motor gasoline allocation for that retail sales outlet for distribution solely to the association members when the retail sales outlet sold motor gasoline to the general public during the base period?	
July 9	Parmelee Motor Fuel Company; Yellow Cab Company; Checker Taxi Company; Harold C. Hirshman, Esq.; Sonnenschelin, Carlin, Nath & Rosenthal; 8000 Sears Tower, Chicago, Illinois 60606.	A–440
	Issue: Is a taxicab company a wholesale purchaser-consumer or a wholesale purchaser-reseller with respect to motor gasoline purchased in bulk by the firm and used in cabs leased from the firm in reference to 10 CFR 211.103?	
July 10	Husky Oil Company, Karl F. Anuta, Esq., 600 South Cherry Street, Denver, Colorado 80222.	A–441
	Issue: May a producer of crude oil calculate its maximum lawful price based upon the highest posted prices for lower tier crude oil on May 15, 1973 and upper tier crude oil on September 30, 1973 without verification that an actual sale took place at those posted prices on or before those dates? 10 CFR 212.73(b) and 212.74(b).	
July 13	Greensboro-Guilford County, Marilyn J. Braun, Civil Preparedness Agency, Drawer W-2, Greensboro, North Carolina 27402.	A–442
	Issue: May State and local governments, pursuant to 10 CFR 211.10(d)(2) and 211.103, establish a priority end-user program which would guarantee supplies of motor gasoline to end-users that are not bulk purchasers or wholesale purchaser-consumers?	
July 16	International Petroleum Refining and Supply SDAD, LTDA; International Petroleum terminals Company (SE); Byron A. Thomas, Esq.; Butler, Binion, Rice, Cook & Knapp; 818 Connecticut Avenue, NW., Washington, D.C. 20006.	A–443
	Issue: Under 10 CFR 211.10(b), must petroleum products obtained from an original purchaser-reseller's supplier to supply that purchaser/reseller's previous customers be included in a substitute purchaser-reseller's "allocable supply"?	
July 16	AMF Incorporated Employees' Cooperative, John S. Johnson, Esq., 777 Westchester Avenue, White Plains, New York 10604.	A–444
	Issue: (1) Is a cooperative that purchases motor gasoline and distributes it to its members an "end-user" as that term is defined in 10 CFR 211.51?	
	(2) Does the distribution of motor gasoline by the cooperative solely to its members constitute discrimination in violation of 10 CFR 210.62(b)?	
July 17	Mountain Fuel Supply Company, Connie C. Holbrook, Esq., 180 East First South, P.O. Box 11368, Salt Lake City, Utah 84139.	A–445

Appendix.—*List of Requests for Interpretation Received by the Office of General Counsel*—Continued

[Months of June and July 1979]

Date Received	Name and Location of Requestor	File No.
	Issue: Does condensate produced from a property that only produced crude oil in nonassociated production as the result of testing in calendar year 1978 qualify as newly discovered crude oil within the meaning of 10 CFR 212.79(b)?	
July 17	Norman Oil Co., Inc., Stephen W. Norman, P.O. Box 198, Chatham, Michigan 49816.	A-446
	Issue: Must an entire business be transferred in order to obligate the primary supplier to supply an allocation of motor gasoline to the transferee under Part 211?	
July 24	Saga Petroleum U.S. Inc., Phinn W. Townsend, Esq., 2000 West Loop South, Suite 1650, Houston, Texas 77027.	A-447
	Issue: Does crude oil recovered as a result of testing in calendar year 1978 prior to the installation of suitable facilities for the commercial production of the well qualify as newly discovered crude oil under 10 CFR 212.79(b)?	
July 24	Kirby Exploration Company, Jerry D. Bissey, Esq., P.O. Box 1745, Houston, Texas 77001.	A-448
	Issue: Issue is identical to A-447 except that the crude oil produced during the testing phase was not later sold. 10 CFR 212.79(b).	
July 26	Stephens Engineering, Joe L. Johnson, Jr., P.O. Box-2249, Wichita Falls, Texas 76307.	A-449
	Issue: (1) Does crude oil produced in calendar year 1978 but not sold until after January 1, 1979, qualify as newly discovered crude oil under 10 CFR 212.79?	
	(2) Does condensate produced as a result of testing in calendar year 1978 from a well which was subsequently shut in until June 1979 qualify as newly discovered crude oil?	
July 30	CIBRO Sales Corporation; Deborah M. Mann, Esq.; Collier, Shannon, Rill, Edwards & Scott; 1055 Thomas Jefferson Street, NW., Washington, D.C. 20007.	A-450
	Issue: (1) Does the term "price" as it is used in the crude oil reseller price rule (10 CFR 212.83(c)) refer to the dollar amount for which a given unit of crude oil is sold?	
	(2) Must a crude oil reseller that did not sell crude oil before December 1, 1977, determine its maximum lawful price by comparing its own price in an individual sale with the average monthly price of the nearest comparable reseller?	
July 30	Franklin Oil Company, Inc., John D. Franklin, P.O. Box 546, Clay City, Illinois 62824.	A-451
	Issue: Does crude oil produced from a well drilled in June 1979 on a property which had been certified previously as a stripper well property under 10 CFR 212.54 qualify as newly discovered crude oil under 10 CFR 212.79(b)?	
July 31	Gulf Oil Corporation; Charles E. Cheek; The Gulf Companies; P.O. Box 1589, Tulsa, Oklahoma 74102.	A-452
	Issue: Are prices charged by foreign firms for NGL's and NGLP's produced and imported by such firms, and thereafter sold in the U.S. to domestic firms, exempt from the Mandatory Petroleum Price Regulations in accordance with 10 CFR 212.53(b)?	
July 31	Northville Industries Corporation, Lesley T. Douglass, Esq., Suite 4C01, 1 Huntington Quadrangle, Melville, New York 11747.	A-453
	Issue: Does a wholesale purchaser's base period volume under 10 CFR 211.10(b)(2)(i) include that volume of motor gasoline received from its base period supplier in exchange for No. 2 heating oil which is not subject to the Mandatory Petroleum Allocation Regulations?	

[FR Doc. 79-26893 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Availability of Form ERA-69, Crude Oil Resellers Self-Reporting Form

AGENCY: Economic Regulatory Administration, Department of Energy.

The Economic Regulatory Administration of the Department of Energy hereby gives Notice of the Issuance of the ERA-69, Crude Oil Reseller's Self-Reporting Form, to be used by all crude oil resellers, including any reseller entity of a refiner. The Form is mandatory under section 13(b) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, and the Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159. The Form provides the means by which crude oil resellers determine their compliance on a monthly basis effective January, 1978, with the crude oil price control provisions of 10 CFR, Part 212, Subpart L. In addition, the Form provides data to permit the U.S. Department of Energy to determine whether a firm is generally in compliance with applicable pricing regulations.

SUPPLEMENTARY INFORMATION:

I. Background

II. Obtaining of Forms

I. Background

The Office of Management and Budget (OMB) published a Notice in the **Federal Register** on May 3, 1979 [44 FR 25957] advising interested persons that copies of the proposed form and supporting documents could be obtained from the Department of Energy. Comments and questions regarding the proposed form were received and reviewed by OMB. The Form announced herein was approved by OMB on June 27, 1979.

II. Obtaining Forms

The ERA-69 is available upon request to ERA and may be obtained by calling Mr. Thomas M. Holleran at (202)—254-9662 or writing to: U.S. Department of Energy, Crude Oil Reseller Program, Office of Enforcement, 2000 M Street, NW., Room 5302, Washington, DC 20461.

Issued at Washington, DC on September 11, 1979.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-28814 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Crystal Oil Co., et al.; Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

September 7, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agenices listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Illinois Department of Mines and Minerals, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16947
2. 12-191-00000
3. 103
4. Louis A Pessina Oil & Gas Exploration
5. Katherina Goff No 6
6. Keenville
7. Wayne, IL
8. 24.0 million cubic feet
9. August 16, 1979
10. Crystal Oil Company

1. 79-16948
2. 12-191-00000
3. 103
4. Louis A Pessina Oil & Gas Exploration
5. Kathereina Goff No 7
6. Keenville
7. Wayne, IL
8. 24.0 million cubic feet
9. August 16, 1979
10. Crystal Oil Company

1. 79-16949
2. 12-191-00000
3. 103
4. Louis A Pessina Oil & Gas Exploration
5. Katherina Goff No 12
6. Keenville
7. Wayne, IL
8. 24.0 million cubic feet
9. August 16, 1979
10. Crystal Oil Company

Montana Board of Oil and Gas Conservation

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16952/6-79-219
2. 25-083-21288
3. 103
4. Helmerich & Payne Inc
5. Lee No 1-12

6. West Otis
7. Richland, MT
8. 73.0 million cubic feet
9. August 16, 1979
10. True Oil Company

1. 79–16953/6–79–216
2. 25–083–21170
3. 102
4. Shell Oil Company
5. Lewis 42–26
6. Mondak West
7. Richland, MT
8. 28.1 million cubic feet
9. August 16, 1979
10. Montana–Dakota Utilities Co

1. 79–16954/6–79–220
2. 25–083–21278
3. 103
4. UV Industries Inc
5. Obergfell 3–34
6. Southeast Putnam
7. Richland, MT
8. .0 million cubic feet
9. August 16, 1979
10. Crystal Oil Company

1. 79–16955/6–79–217
2. 25–083–21285
3. 103
4. Kenneth Luff Inc
5. #1–34 Sjostrom
6. Middle Sioux Pass
7. Richland, MT
8. 50.0 million cubic feet
9. August 16, 1979
10. True Oil Company

1. 79–16956/6–79–218
2. 25–071–21654
3. 103
4. Denmark Resources Inc
5. Fisher #1–17
6. Swanson Creek
7. Phillips, MT
8. 29.0 million cubic feet
9. August 16, 1979
10. Montana–Dakota Utilities Co

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–16796/04854
2. 34–059–2200 4–0014
3. 108
4. Appalachian Exploration Inc
5. Bennett-Warden #1
6.
7. Guernsey, OH
8. 9.0 million cubic feet
9. August 16, 1979
10. Consolidated Aluminum Corp

1. 79–16789/04817
2. 34–157–22069–0014
3. 108
4. Appalachian Exploration Inc
5. T Breyer #3
6.
7. Tuscarawas, OH
8. 8.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79–16790/04818
2. 34–157–21749–0014
3. 108
4. Appalachian Exploration Inc
5. Brown #1
6.
7. Tuscarawas, OH
8. 13.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79–16791/04819
2. 34–157–22631–0014
3. 108
4. Appalachian Exploration Inc
5. Casteel #1
6.
7. Tuscarawas, OH
8. 5.0 million cubic feet
9. August 16, 1979
10. Consolidated Aluminum Corp

1. 79–16792/04820
2. 34–157–22548–0014
3. 108
4. Appalachian Exploration Inc
5. Carlisle #1
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. August 16, 1979
10. Wheeling-Pittsburgh Steel Co

1. 79–16793/04851
2. 34–157–22306–0014
3. 108
4. Appalachian Exploration Inc
5. Belden Brick #3
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. The Belden Brick Co

1. 79–16794/04852
2. 34–157–22305–0014
3. 108
4. Appalachian Exploration Inc
5. Belden Brick #2
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. The Belden Brick Co

1. 79–16795/04853
2. 34–157–22304–0014
3. 108
4. Appalachian Exploration Inc
5. Belden Brick #1
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. The Belden Brick Co

1. 79–16797/04855
2. 34–157–21782–0014
3. 108
4. Appalachian Exploration Inc
5. Bennett #1
6.
7. Tuscarawas, OH
8. 2.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79–16798/04856
2. 34–157–22307–0014
3. 108
4. Appalachian Exploration Inc
5. Belden Brick #4
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. The Belden Brick Co

1. 79–16799/04861
2. 34–059–21937–0014
3. 108
4. Appalachian Exploration Inc
5. Garrett #1
6.
7. Guernsey, OH
8. 4.0 million cubic feet
9. August 16, 1979
10. Wheeling-Pittsburgh Steel Co

1. 79–16800/04877
2. 34–059–22001–0014
3. 108
4. Appalachian Exploration Inc
5. F Taylor #2
6.
7. Guernsey, OH
8. 6.0 million cubic feet
9. August 16, 1979
10. Consolidated Aluminum Corp

1. 79–16801/04862
2. 34–157–22117–0014
3. 108
4. Appalachian Exploration Inc
5. Huffman-Taylor #1
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. Transue & Williams Steel Forging

1. 79–16802/04863
2. 34–157–22146–0014
3. 108
4. Appalachian Exploration Inc
5. Huffman-Maloy #1
6.
7. Tuscarawas, OH
8. 1.0 million cubic feet
9. August 16, 1979
10. Transue & Williams Steel Forging

1. 79–16803/04864
2. 34–059–22005–0014
3. 108
4. Appalachian Exploration Inc
5. Hosfelt #1
6.
7. Guernsey, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. Consolidated Aluminum Corp

1. 79–16804/04866
2. 34–031–22941–0014
3. 108
4. Appalachian Exploration Inc
5. Kistler #1
6.
7. Coshocton, OH
8. 3.0 million cubic feet
9. August 16, 1979
10. Sterling China Co

1. 79–16805/04870
2. 34–059–21801–0014
3. 108
4. Appalachian Exploration Inc
5. Kirkendall #1
6.

7. Guernsey, OH
8. 3.0 million cubic feet
9. August 16, 1979
10. Wheeling-Pittsburgh Steel Co

1. 79-16806/04871
2. 34-059-21672-0014
3. 108
4. Appalachian Exploration Inc
5. Koch #1
6.
7. Guernsey, OH
8. 3.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79-16807/04872
2. 34-157-22129-0014
3. 108
4. Appalachian Exploration Inc
5. K & H Coal #2
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79-16808/04873
2. 34-157-21916-0014
3. 108
4. Appalachian Exploration Inc
5. K & H Coal #1
6.
7. Tuscarawas, OH
8. 5.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79-16809/04874
2. 34-059-21919-0014
3. 108
4. Appalachian Exploration Inc
5. Gardner #1
6.
7. Guernsey, OH
8. 4.0 million cubic feet
9. August 16, 1979
10. Wheeling-Pittsburgh Steel Co

1. 79-16810/04875
2. 34-157-21694-0014
3. 108
4. Appalachian Exploration Inc
5. Garabrandt #1
6.
7. Tuscarawas, OH
8. 2.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79-16811/04876
2. 34-157-22000-0014
3. 108
4. Appalachian Exploration Inc
5. Superior Clay #1
6.
7. Tuscarawas, OH
8. 15.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79-16812/04878
2. 34-059-22000-0014
3. 108
4. Appalachian Exploration Inc
5. F Taylor #1
6.
7. Guernsey, OH
8. 6.0 million cubic feet
9. August 16, 1979
10. Consolidated Aluminum Corp

1. 79-16813/04880
2. 34-157-22112-0014
3. 108
4. Appalachian Exploration Inc
5. Taylor #1
6.
7. Tuscarawas, OH
8. 2.0 million cubic feet
9. August 16, 1979
10. Transue & Williams Steel Forging

1. 79-16814/04881
2. 34-157-22476-0014
3. 108
4. Appalachian Exploration Inc
5. Schreiner #1
6.
7. Tuscarawas, OH
8. 12.0 million cubic feet
9. August 16, 1979
10. Wheeling-Pittsburgh Steel Co

1. 79-16815/04882
2. 34-157-22632-0014
3. 108
4. Appalachian Exploration Inc
5. Rotruck #1
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. Consolidated Aluminum Corp

1. 79-16816/04884
2. 34-059-21633-0014
3. 108
4. Appalachian Exploration Inc
5. L Gibson #1
6.
7. Guernsey, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79-16817/04885
2. 34-059-21806-0014
3. 108
4. Appalachian Exploration Inc
5. L Gibson #2
6.
7. Guernsey, OH
8. 2.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79-16818/04886
2. 34-059-21684-0014
3. 108
4. Appalachian Exploration Inc
5. B Neilley #1
6.
7. Guernsey, OH
8. 3.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79-16819/04887
2. 34-157-22020-0014
3. 108
4. Appalachian Exploration Inc
5. Davis #1
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. August 16, 1979
10. Transue & Williams Steel Forging

1. 79-16820/04889
2. 34-157-22549-0014
3. 108
4. Appalachian Exploration Inc
5. McMillen #1
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. August 16, 1979
10. Wheeling-Pittsburgh Steel Co

1. 79-16821/04890
2. 34-157-21884-0014
3. 108
4. Appalachian Exploration Inc
5. McDowell #1
6.
7. Tuscarawas, OH
8. 6.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79-16822/04891
2. 34-059-21733-0014
3. 108
4. Appalachian Exploration Inc
5. P Lucas #3
6.
7. Guernsey, OH
8. 1.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79-16823/04892
2. 34-059-21732-0014
3. 108
4. Appalachian Exploration Inc
5. P Lucas #2
6.
7. Guernsey, OH
8. 3.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79-16824/04893
2. 34-059-21971-0014
3. 108
4. Appalachian Exploration Inc
5. E Gadd #1
6.
7. Guernsey, OH
8. 4.0 million cubic feet
9. August 16, 1979
10. The Claycraft Co

1. 79-16825/04894
2. 34-157-21796-0014
3. 108
4. Appalachian Exploration Inc
5. Fisher #1
6.
7. Tuscarawas, OH
8. 5.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79-16826/04895
2. 34-059-21938-0014
3. 108
4. Appalachian Exploration Inc
5. M Edwards #1
6.
7. Guernsey, OH
8. 15.0 million cubic feet
9. August 16, 1979
10. Wheeling-Pittsburgh Steel Co

1. 79-16827/04896
2. 34-157-21708-0014
3. 108
4. Appalachian Exploration Inc
5. Galbraith #1
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79-16828/04898

2. 34–157–22339–0014
3. 108
4. Appalachian Exploration Inc
5. Toland-Everhard #1
6.
7. Tuscarawas, OH
8. 9.0 million cubic feet
9. August 16, 1979
10. The Claycraft Co

1. 79–16829/04899
2. 34–059–21936–0014
3. 108
4. Appalachian Exploration Inc
5. Garrett #2
6.
7. Guernsey, OH
8. 4.0 million cubic feet
9. August 16, 1979
10. Wheeling-Pittsburgh Steel Co

1. 79–16830/04900
2. 34–157–21943–0014
3. 108
4. Appalachian Exploration Inc
5. T Breyer #1
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79–16831/04901
2. 34–157–22371–0014
3. 108
4. Appalachian Exploration Inc
5. Claycraft-Zahner #1
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. The Claycraft Co

1. 79–16832/04902
2. 34–157–21688–0014
3. 108
4. Appalachian Exploration Inc
5. Coutts #1
6.
7. Tuscarawas, OH
8. 9.0 million cubic feet
9. August 16, 1979
10. Cyclops Corp

1. 79–16833/04903
2. 34–157–21915–0014
3. 108
4. Appalachian Exploration Inc
5. Davidson #1
6.
7. Tuscarawas, OH
8. 20.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79–16834/04904
2. 34–059–21909–0014
3. 108
4. Appalachian Exploration Inc
5. C I A Scovill #1
6.
7. Gurnsey, OH
8. 4.0 million cubic feet
9. August 16, 1979
10. Hamilton Beach

1. 79–16835/04905
2. 34–157–21969–0014
3. 108
4. Appalachian Exploration Inc
5. T Breyer #2
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79–16836/04908
2. 34–157–22449–0014
3. 108
4. Appalachian Exploration Inc
5. Bosley #1
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. The Belden Brick Co

1. 79–16837/04909
2. 34–157–21955–0014
3. 108
4. Appalachian Exploration Inc
5. Breehl-Fontana #1
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79–16838/04910
2. 34–157–22630–0014
3. 108
4. Appalachian Exploration Inc
5. Casteel #2
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. August 16, 1979
10. Consolidated Aluminum Corp

1. 79–16839/04911
2. 34–059–21910–0014
3. 108
4. Appalachian Exploration Inc
5. C I A Scovill #2
6.
7. Guernsey, OH
8. 4.0 million cubic feet
9. August 16, 1979
10. Hamilton Beach

1. 79–16840/04912
2. 34–157–22437–0014
3. 108
4. Appalachian Exploration Inc
5. Claycraft #1
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. The Claycraft Co

1. 79–16841/04913
2. 34–059–21893–0014
3. 108
4. Appalachian Exploration Inc
5. Mourer #1
6.
7. Guernsey, OH
8. 4.0 million cubic feet
9. August 16, 1979
10. Wheeling-Pittsburgh Steel Co

1. 79–16842/05325
2. 34–009–21086–0014
3. 108
4. Joseph J Mihelic
5. Chadwell #1
6.
7. Athens, OH
8. .5 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16843/05326
2. 34–009–20118–0014
3. 108
4. Joseph J Mihelic
5. Wooley #1
6.
7. Athens, OH
8. .4 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16844/05327
2. 34–009–20730–0014
3. 108
4. Joseph J Mihelic
5. Hansen #1
6.
7. Athens, OH
8. .5 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16845/05328
2. 34–009–00793–0014
3. 108
4. Joseph J Mihelic
5. Kasler #1
6.
7. Athens, OH
8. .5 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16846/05329
2. 34–115–00649–0014
3. 108
4. Joseph J Mihelic
5. Hallowell Parsons #1
6.
7. Morgan, OH
8. .4 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16847/05330
2. 34–115–20534–0014
3. 108
4. Joseph J Mihelic
5. Hallowell Woodyard #1
6.
7. Morgan, OH
8. .4 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16848/05331
2. 34–115–00650–0014
3. 108
4. Joseph J Mihelic
5. Hopkins Smith #1
6.
7. Morgan, OH
8. .7 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16849/05332
2. 34–115–20179–0014
3. 108
4. Joseph J Mihelic
5. McIntyre #1
6.
7. Morgan, OH
8. .2 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16850/05333
2. 34–009–24019–0014
3. 108
4. Joseph J Mihelic
5. Keirns #1
6.

7. Athens, OH
8. .5 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16851/05334
2. 34-009-21078-0014
3. 108
4. Joseph J Mihelic
5. E L Keirns #1
6.
7. Athens, OH
8. 2.3 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16852/05335
2. 34-115-20723-0014
3. 108
4. Joseph J Mihelic
5. Benjamin #1
6.
7. Morgan, OH
8. 1.4 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16853/05336
2. 34-009-20246-0014
3. 108
4. Joseph J Mihelic
5. Mingus #1
6.
7. Athens, OH
8. .4 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16854/05337
2. 34-009-203350-0014
3. 108
4. Joseph J Mihelic
5. Mingus #1
6.
7. Athens, OH
8. .5 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16855/05338
2. 34-009-20233-0014
3. 108
4. Joseph J Mihelic
5. Mingus #1
6.
7. Athens, OH
8. .5 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16856/05339
2. 34-115-20872-0014
3. 108
4. Joseph J Mihelic
5. Watts #1
6.
7. Morgan, OH
8. 2.3 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16857/05341
2. 34-009-21101-0014
3. 108
4. Joseph J Mihelic
5. Linscott #1
6.
7. Athens, OH
8. .6 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16858/05342
2. 34-009-00798-0014
3. 108
4. Joseph J Mihelic
5. Fleming #1
6.
7. Athens, OH
8. .6 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16859/05343
2. 34-009-00783-0014
3. 108
4. Joseph J Mihelic
5. Glazier #1
6.
7. Athens, OH
8. .6 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16860/05344
2. 34-009-00518-0014
3. 108
4. Joseph J Mihelic
5. Blackwood #1
6.
7. Athens, OH
8. .5 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16861/05345
2. 34-009-21099-0014
3. 108
4. Joseph J Mihelic
5. Nadroski #1
6.
7. Athens, OH
8. .5 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16862/05346
2. 34-009-21159-0014
3. 108
4. Joseph J Mihelic
5. Loeffler #1
6.
7. Athens, OH
8. .3 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16863/05347
2. 34-009-20684-0014
3. 108
4. Joseph J Mihelic
5. Lucas #1
6.
7. Athens, OH
8. .6 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16864/05348
2. 34-009-21116-0014
3. 108
4. Joseph J Mihelic
5. Mathews #1
6.
7. Athens, OH
8. 1.6 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16865/05349
2. 34-009-21300-0014
3. 108
4. Joseph J Mihelic
5. Smith #1
6.
7. Athens, OH
8. .3 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16866/05400
2. 34-075-21564-0014
3. 108
4. H I Smith Oil & Gas Inc
5. Judy-Jones Unit #1
6.
7. Holmes, OH
8. 1.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16867/05401
2. 34-119-22909-0014
3. 108
4. H I Smith Oil & Gas Inc
5. French-McNeish Unit #1
6.
7. Muskingum, OH
8. 4.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16868/05402
2. 34-119-22650-0014
3. 108
4. H I Smith Oil & Gas Inc
5. J Hamilton Unit #1
6.
7. Muskingum, OH
8. 8.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16869/05548
2. 34-031-03103-0014
3. 103
4. H & S Operating Company
5. H Roahrig #1
6.
7. Coshocton, OH
8. 15.0 million cubic feet
9. August 16, 1979
10.
1. 79-16870/05549
2. 34-059-22205-0014
3. 103
4. H & S Operating Company
5. Ross #1
6.
7. Guernsey, OH
8. 24.0 million cubic feet
9. August 16, 1979
10.
1. 79-16871/05550
2. 34-059-22235-0014
3. 103
4. H & S Operating Company
5. Elder #1
6.
7. Guernsey, OH
8. 24.0 million cubic feet
9. August 16, 1979
10.
1. 79-16872/05557
2. 34-125-20039-0014
3. 103
4. Northern Indiana Producers
5. Woodward #2
6.
7. Paulding, OH
8. .0 million cubic feet
9. August 16, 1979
10. Ohio-Northwest Development Inc
1. 79-16873/05867

2. 34–119–24681–0014
3. 103
4. Williston Oil & Development Corp
5. White #4
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. August 16, 1979
10.

1. 79–16873/05923
2. 34–119–24688–0014
3. 103
4. Fortune Gas and Oil Inc
5. Margaret Brewer #1
6.
7. Muskingum, OH
8. 30.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Company

1. 79–16875/05924
2. 34–133–21084–0014
3. 103
4. Clinton Sands Natural Resource Group
5. Rothermell #1
6.
7. Portage, OH
8. 10.0 million cubic feet
9. August 16, 1979
10.

1. 79–16876/05926
2. 34–133–20923–0014
3. 103
4. Clinton Sands Natural Resource Group
5. Crane Unit #2
6.
7. Portage, OH
8. 10.0 million cubic feet
9. August 16, 1979
10.

1. 79–16877/05927
2. 34–153–20637–0014
3. 103
4. K S T Oil & Gas Co Inc
5. Walsh Jesoit High School #4
6.
7. Summit, OH
8. 36.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79–16878/05928
2. 34–153–20665–0014
3. 103
4. K S T Oil & Gas Co Inc
5. Stranieri #1
6.
7. Summit, OH
8. 72.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co

1. 79–16879/05929
2. 34–031–23471–0014
3. 103
4. Joe L Schrimsher
5. Archie Williamson #3
6.
7. Coshocton, OH
8. 20.0 million cubic feet
9. August 16, 1979
10.

1. 79–16880/05980
2. 34–083–22602–0014
3. 103
4. Johnson Drilling Co
5. Robert Edmondson #3
6.
7. Knox, OH
8. 3.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16881/05981
2. 34–157–23317–0014
3. 103
4. Orion Energy Corp
5. Gilt #2
6.
7. Tuscarawas, OH
8. 20.0 million cubic feet
9. August 16, 1979
10.

1. 79–16882/05982
2. 34–045–20599–0014
3. 103
4. Quaker State Oil Refining Corp
5. McLaughlin #3 80004–3
6.
7. Fairfield, OH
8. 3.7 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16883/01283
2. 34–157–21358–0014
3. 108
4. Mineral Leasing Inc
5. Dan Guspyt #1
6.
7. Tuscarawas, OH
8. 2.7 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16884/01285
2. 34–059–21407–0014
3. 108
4. Mineral Leasing Inc
5. Yakubk #1
6.
7. Guernsey, OH
8. 11.3 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16885/01413
2. 34–169–00069–0014
3. 108
4. David Shafer Oil Producers Inc
5. W Carmony #2
6.
7. Wayne, OH
8. 4.4 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16886/01414
2. 34–075–00195–0014
3. 108
4. David Shafer Oil Producers Inc
5. J Smith #1
6.
7. Holmes, OH
8. .3 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16887/01415
2. 34–075–20435–0014
3. 108
4. David Shafer Oil Producers Inc
5. J Smith #3
6.
7. Holmes, OH
8. .3 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16888/01416
2. 34–103–21934–0014
3. 108
4. David Shafer Oil Producers Inc
5. Dieter-Tritt #2
6.
7. Medina, OH
8. .4 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–168889/01463
2. 34–059–20912–0014
3. 108
4. Mineral Leasing Inc
5. Rector #1
6.
7. Guernsey, OH
8. 18.2 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16890/01646
2. 34–009–00797–0014
3. 108
4. Joseph J. Mihelic
5. Gardner #2
6.
7. Athens, OH
8. .3 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16891/01654
2. 34–115–00662–0014
3. 108
4. Joseph J. Mihelic
5. George Janes #1
6.
7. Morgan, OH
8. .2 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16892/01662
2. 34–115–20104–0014
3. 108
4. Joseph J Mihelic
5. Dale #2
6.
7. Morgan, OH
8. .7 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16893/01663
2. 34–009–00791–0014
3. 108
4. Joseph J Mihelic
5. Linscott #1
6.
7. Athens, OH
8. .6 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16894/01664
2. 34–009–20256–0014
3. 108
4. Joseph J Mihelic
5. Phillips #3
6.
7. Athens, OH
8. .5 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16895/01665
2. 34–009–20117–0014
3. 108
4. Joseph J Mihelic
5. Kasler #1
6.

7. Athens, OH
8. .5 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16896/01666
2. 34-009-20432-0014
3. 108
4. Joseph J Mihelic
5. Sugar Creek #1
6.
7. Athens, OH
8. .7 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16897/01667
2. 34-009-21244-0014
3. 108
4. Joseph J Mihelic
5. Loeffler #1 (Lease 5)
6.
7. Athens, OH
8. .5 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16898/01668
2. 34-009-00792-0014
3. 108
4. Joseph J Mihelic
5. Linscott #2
6.
7. Athens, OH
8. .6 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16899/01669
2. 34-009-00794-0014
3. 108
4. Joseph J Mihelic
5. Linscott #2
6.
7. Athens, OH
8. .5 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16900/01670
2. 34-115-20669-0014
3. 108
4. Joseph J Mihelic
5. Mosier Grimes #3
6.
7. Morgan, OH
8. .4 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16901/01685
2. 34-009-20327-0014
3. 108
4. Joseph J Mihelic
5. Calhoun #1
6.
7. Athens, OH
8. .6 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16902/01686
2. 34-009-00498-0014
3. 108
4. Joseph J Mihelic
5. (Lavelle) #2 Brawley
6.
7. Athens, OH
8. .6 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16903/01687
2. 34-009-00799-0014
3. 108
4. Joseph J Mihelic
5. (Lavelle) #1 Brawley
6.
7. Athens, OH
8. .6 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16904/01688
2. 34-115-00466-0014
3. 108
4. Joseph J Mihelic
5. Dawson #1
6.
7. Morgan, OH
8. 1.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16905/01689
2. 34-115-00645-0014
3. 108
4. Joseph J Mihelic
5. Embree #1
6.
7. Morgan, OH
8. .5 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16906/01690
2. 34-009-21170-0014
3. 108
4. Joseph J Mihelic
5. Loeffler #1 (Lease 4)
6.
7. Athens, OH
8. .5 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16907/01691
2. 34-009-21097-0014
3. 108
4. Joseph J Mihelic
5. Howard #1
6.
7. Athens, OH
8. .5 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16908/01702
2. 34-00920189-0014
3. 108
4. Joseph J Mihelic
5. Linscott #2
6.
7. Athens, OH
8. .5 million cubic feet
9. August, 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16909/01703
2. 34-009-00786-0014
3. 108
4. Joseph J Mihelic
5. Dean #3
6.
7. Athens, OH
8. .4 million cubic feet
9. August, 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16910/01704
2. 34-009-00787-0014
3. 108
4. Joseph J Mihelic
5. Dean #4
6.
7. Athens, OH
8. .4 million cubic feet
9. August, 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16911/01705
2. 34-009-00785-0014
3. 108
4. Joseph J Mihelic
5. Dean #2
6.
7. Athens, OH
8. .4 million cubic feet
9. August, 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16912/01706
2. 34-009-21114-0014
3. 108
4. Joseph J Mihelic
5. (Lavelle) #4-Brawley
6.
7. Athens, OH
8. .6 million cubic feet
9. August, 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16913/01707
2. 34-009-21108-0014
3. 108
4. Joseph J Mihelic
5. Wolf #1
6.
7. Athens, OH
8. .5 million cubic feet
9. August, 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16914/01708
2. 34-009-21179-0014
3. 108
4. Joseph J Mihelic
5. Wolf #2
6.
7. Athens, OH
8. .5 million cubic feet
9. August, 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16915/01709
2. 34-009-21094-0014
3. 108
4. Joseph J Mihelic
5. Keirns #1
6.
7. Athens, OH
8. .5 million cubic feet
9. August, 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16916/01710
2. 34-009-21295-0014
3. 108
4. Joseph J Mihelic
5. Wooley #1
6.
7. Athens, OH
8. .5 million cubic feet
9. August, 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16917/01711
2. 34-009-20431-0014
3. 108
4. Joseph J Mihelic
5. Wooley #2
6.
7. Athens, OH
8. .5 million cubic feet
9. August, 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16918/01713

2. 34–115–20466–0014
3. 108
4. Joseph J Mihelic
5. J Janes #1
6.
7. Morgan, OH
8. .2 million cubic feet
9. August, 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16919/01971
2. 34–009–00796–0014
3. 108
4. Joseph J Mihelic
5. Gardner #1
6.
7. Athens, OH
8. .3 million cubic feet
9. August, 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16920/01972
2. 34–103–21929–0014
3. 108
4. David Shafer Oil Producers Inc
5. Horn Unit #1
6.
7. Medina, OH
8. 5.3 million cubic feet
9. August, 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16921/02071
2. 34–055–20060–0014
3. 108
4. Petro-Lewis Corporation
5. Miller #1 J D
6.
7. Geauga, OH
8. 4.2 million cubic feet
9. August, 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16922/03907
2. 34–127–24268–0014
3. 103
4. Custom Industries Inc
5. Jack L. Treadway #3
6.
7. Perry, OH
8. 36.0 million cubic feet
9. August, 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16923/03908
2. 34–127–24266–0014
3. 103
4. Custom Industries Inc
5. Ruth Watts #3
6.
7. Perry, OH
8. 36.0 million cubic feet
9. August, 16, 1979
10.

1. 79–16924/04403
2. 34–157–22334–0014
3. 108
4. H I Smith Oil & Gas Inc
5. D Hursey #1
6.
7. Tuscarawas, OH
8. 4.0 million cubic feet
9. August, 16, 1979
10. Oxford Gas Transmission Corp

1. 79–16925/04404
2. 34–157–22150–0014
3. 108
4. H I Smith Oil & Gas Inc
5. McCune #1
6.
7. Tuscarawas, OH
8. 4.0 million cubic feet
9. August, 16, 1979
10. Oxford Gas Transmission Corp

1. 79–16926/04405
2. 34–157–21599–0014
3. 108
4. H I Smith Oil & Gas Inc
5. L Elliott #1
6.
7. Tuscarawas, OH
8. 1.0 million cubic feet
9. August, 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16927/04406
2. 34–075–22043–0014
3. 108
4. H I Smith Oil & Gas Inc
5. Snyder #4
6.
7. Holmes, OH
8. 1.0 million cubic feet
9. August, 16, 1979
10. East Ohio Gas Company

1. 79–16928/04409
2. 34–075–21335–0014
3. 108
4. H I Smith Oil & Gas Inc
5. E Miller #1
6.
7. Holmes, OH
8. 2.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16929/04410
2. 34–169–20988–0014
3. 108
4. H I Smith Oil & Gas Inc
5. F Jentes #1
6.
7. Wayne, OH
8. 4.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16930/04412
2. 34–157–21756–0014
3. 108
4. H I Smith Oil & Gas Inc
5. Oaklief #1
6.
7. Tuscarawas, OH
8. 1.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16931/04413
2. 34–059–21423–0014
3. 108
4. H I Smith Oil & Gas Inc
5. A Porter #1
6.
7. Guernsey, OH
8. 5.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Company

1. 79–16932/04414
2. 34–157–22170–0014
3. 108
4. H I Smith Oil & Gas Inc
5. R George #1
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. Oxford Gas Transmission Co

1. 79–16933/04415
2. 34–157–24709–0014
3. 108
4. H I Smith Oil & Gas Inc
5. R Hursey #1
6.
7. Tuscarawas, OH
8. 4.0 million cubic feet
9. August 16, 1979
10. Oxford Gas Transmission Co

1. 79–16934/04416
2. 34–075–21305–0014
3. 108
4. H I Smith Oil & Gas Inc
5. E Yoder #1
6.
7. Holmes, OH
8. 1.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16935/04417
2. 34–103–21114–0014
3. 108
4. H I Smith Oil & Gas Inc
5. J M Steele #1
6.
7. Medina, OH
8. .5 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16936/04418
2. 34–169–21097–0014
3. 108
4. H I Smith Oil & Gas Inc
5. O Yeagley #1
6.
7. Wayne, OH
8. 2.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16937/04419
2. 34–169–21523–0014
3. 108
4. H I Smith Oil & Gas Inc
5. A Elliott #1
6.
7. Wayne, OH
8. 3.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16938/04420
2. 34–139–20268–0014
3. 108
4. H I Smith Oil & Gas Inc
5. Remy #1
6.
7. Richland, OH
8. 6.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16939/04421
2. 34–157–21786–0014
3. 108
4. H I Smith Oil & Gas Inc
5. Mizer #1–8
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp

1. 79–16940/04422
2. 34–075–22008–0014
3. 108
4. H I Smith Oil & Gas Inc
5. Snyder #3
6.

7. Holmes, OH
8. 1.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Company
1. 79-16941/04423
2. 34-005-21494-0014
3. 108
4. H I Smith Oil & Gas Inc
5. Atterholt #1
6.
7. Ashland, OH
8. 1.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16942/04424
2. 34-075-21459-0014
3. 108
4. H I Smith Oil & Gas Inc
5. Brown #1
6.
7. Holmes, OH
8. 2.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16943/04425
2. 34-075-21313-0014
3. 108
4. H I Smith Oil & Gas Inc
5. Clell Maxwell #1
6.
7. Holmes, OH
8. 1.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16944/04426
2. 34-119-22722-0014
3. 108
4. H I Smith Oil & Gas Inc
5. J Hamilton #2
6.
7. Muskingum, OH
8. 8.0 million cubic feet
9. August 16, 1979
10. Columbia Gas Transmission Corp
1. 79-16945/04815
2. 34-157-21689-0014
3. 108
4. Appalachian Exploration Inc
5. Buss #1
6.
7. Tuscarawas, OH
8. 3.0 million cubic feet
9. August 16, 1979
10. East Ohio Gas Co
1. 79-16946/04816
2. 34-157-22309-0014
3. 108
4. Appalachian Exploration Inc
5. Belden Brick #6
6.
7. Tuscarawas, OH
8. 7.0 million cubic feet
9. August 16, 1979
10. The Belden Brick Co

Texas Railroad Commission, Oil and Gas Division

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-16957/02767
2. 42-103-00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 3722
6. McElroy
7. Crane, TX
8. .0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79-16958/02768
2. 42-103-00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 3720
6. McElroy
7. Crane, TX
8. .0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79-16959/02769
2. 42-103-00000
3. 103
4. Getty Oil Company
5. N McElroy Unit Well No 3713
6. McElroy
7. Crane, TX
8. 12.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79-16960/02770
2. 42-103-00000
3. 103
4. Getty Oil Company
5. N McElroy Unit Well No 3711
6. McElroy
7. Crane, TX
8. 6.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79-16961/02771
2. 42-103-00000
3. 103
4. Getty Oil Company
5. North McElroy Unit No 3706
6. McElroy
7. Crane, TX
8. .0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79-16962/02772
2. 42-103-00000
3. 103
4. Getty Oil Company
5. N McElroy Unit Well No 4115
6. McElroy
7. Crane, TX
8. 2.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79-16963/02751
2. 42-103-00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 4423
6. McElroy
7. Crane, TX
8. .0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79-16964/02752
2. 42-103-00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 3761
6. McElroy
7. Crane, TX
8. .0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79-16965/02753
2. 42-103-00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 3759
6. McElroy
7. Crane, TX
8. 3.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79-16966/02754
2. 42-103-00000
3. 103
4. Getty Oil Company
5. N McElroy Unit Well No 3757
6. McElroy
7. Crane, TX
8. 4.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79-16967/02755
2. 42-103-00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 3736
6. McElroy
7. Crane, TX
8. .0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79-16968/02756
2. 42-103-00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 3734
6. McElroy
7. Crane, TX
8. 4.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79-16969/02757
2. 42-103-00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 3729
6. McElroy
7. Crane, TX
8. .0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79-16970/02758
2. 42-103-00000
3. 103
4. Getty Oil Company
5. N McElroy Unit Well #3752
6. McElroy
7. Crane, TX
8. 10.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79-16971/02759
2. 42-103-00000
3. 103
4. Getty Oil Company
5. N McElroy Unit Well #3750
6. McElroy
7. Crane, TX

8. 1.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79–16972/02760
2. 42–103–00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 3743
6. McElroy
7. Crane, TX
8. .0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79–16973/02761
2. 42–103–00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 3741
6. McElroy
7. Crane, TX
8. .0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79–16974/02762
2. 42–103–00000
3. 103
4. Getty Oil Company
5. N McElroy Unit Well No 3522
6. McElroy
7. Crane, TX
8. 20.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79–16975/02763
2. 42–103–00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 3704
6. McElroy
7. Crane, TX
8. .0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Co

1. 79–16976/02773
2. 42–103–00000
3. 103
4. Getty Oil Company
5. N McElroy unit well No 4131
6. McElroy
7. Crane, TX
8. 7.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Company

1. 79–16977/02249
2. 42–375–30350
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 17–9 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 7.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–16978/02250
2. 42–375–30360
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 17–10 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 3.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–16979/02251
2. 42–375–30340
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 17–11 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 6.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–16980/02252
2. 42–375–30346
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 21–6 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 1.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–16981/02253
2. 42–375–30345
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 21–7 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 2.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–16982/02254
2. 42–375–30606
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 8–26 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 14.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–16983/02213
2. 42–003–00000
3. 108
4. Adobe Oil & Gas Corporation
5. Lineberry A No 1
6. Union
7. Andrews, TX
8. 11.5 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Company

1. 79–16984/02227
2. 42–105–00488
3. 108
4. Sohio Natural Resources Co
5. Scott #1
6. Ingham (Devonian)
7. Crockett, TX
8. 16.8 million cubic feet
9. August 15, 1979
10. El Paso Natural Gas Co

1. 79–16985/02236
2. 42–195–00000
3. 108
4. Monsanto Company
5. Sanders #1 RRC #28396
6. Hansford (Lower Morrow)
7. Hansford County, TX
8. 15.0 million cubic feet
9. August 15, 1979
10. Northern Natural Gas Company

1. 79–16986/02237
2. 42–375–30618
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 8–6 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 20.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–16987/02238
2. 42–375–30620
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 8–9 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 13.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas

1. 79–16988/02239
2. 42–375–30349
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 8–10 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 5.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–16989/02240
2. 42–375–30351
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 8–12 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 6.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–16990/02241
2. 42–375–30359
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 8–13 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 9.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–16991/02242
2. 42–375–30341
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 8–16 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 3.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–16992/02243
2. 42–375–30354
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 8–17 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 9.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–16993/02244
2. 42–375–30357
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 8–22 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 7.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–16994/02003

2. 42–227–31643
3. 103
4. Phillips Petroleum Company
5. Bellam No 14
6. Iatan East (Howard)
7. Howard, TX
8. 1.1 million cubic feet
9. August 15, 1979
10. Getty Oil Company

1. 79–16995/02004
2. 42–227–31422
3. 103
4. Phillips Petroleum Company
5. Bellnolia No 6
6. Iatan East (Howard)
7. Howard, TX
8. 4.1 million cubic feet
9. August 15, 1979
10. Getty Oil Company

1. 79–16996/02005
2. 42–227–31421
3. 103
4. Phillips Petroleum Company
5. Bellnolia No 7
6. Iatan East (Howard)
7. Howard, TX
8. 1.7 million cubic feet
9. August 15, 1979
10. Getty Oil Company

1. 79–16997/02006
2. 42–227–31644
3. 103
4. Phillips Petroleum Company
5. Bellnolia No 9
6. Iatan East (Howard)
7. Howard, TX
8. 7.1 million cubic feet
9. August 15, 1979
10. Getty Oil Company

1. 79–16998/02182
2. 42–105–31178
3. 103
4. Gulf Oil Corp
5. State IT No. 5
6. Farmer (San Andres)
7. Crockett, TX
8. 10.9 million cubic feet
9. August 15, 1979
10. Big Lake Gas Corporation

1. 79–16999/02212
2. 42–003–00000
3. 108
4. Adobe Oil & Gas Corporation
5. Lineberry A No 2
6. Union
7. Andrews, TX
8. 10.8 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Company

1. 79–17000/02255
2. 42–375–30586
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 8–27 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 12.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–17001/02256
2. 42–375–30587
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 16–3 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 6.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–17002/02257
2. 42–375–30589
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 16–4 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 9.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–17003/02258
2. 42–375–30597
3. 103
4. Gas Producing Enterprises Inc
5. Bivins 16–5 RO
6. West Panhandle Red Cave
7. Potter, TX
8. 7.0 million cubic feet
9. August 15, 1979
10. Colorado Interstate Gas Co

1. 79–17004/02272
2. 42–475–31630
3. 103 107
4. Hng Oil Company
5. Hng Fee 57 #2 (77171)
6. Taurus (Ellenburger)
7. Ward, TX
8. 1376.0 million cubic feet
9. August 15, 1979
10. Intratex Gas Company Transwestern Gas Supply Co

1. 79–17005/02277
2. 42–175–00000
3. 108
4. American Petrofina Company of Texas
5. D M Reed #1
6. Cabeza Creek South
7. Goliad, TX
8. 2.0 million cubic feet
9. August 15, 1979
10. United Gas Pipeline Co

1. 79–17006/02298
2. 42–079–30778
3. 103
4. Union Oil Company of Calif
5. Masten J #5 (73942)
6. Levelland (San Andres)
7. Cochran, TX
8. 37.0 million cubic feet
9. August 15, 1979
10. El Paso Natural Gas Co

1. 79–17007/02744
2. 42–103–00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 3727
6. McElroy
7. Crane, TX
8. 10.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Company

1. 79–17008/02745
2. 42–103–00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 4106
6. McElroy
7. Crane, TX
8. 3.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Company

1. 79–17009/02746
2. 42–103–00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 4108
6. McElroy
7. Crane, TX
8. 4.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Company

1. 79–17010/02747
2. 42–103–00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 3357
6. McElroy
7. Crane, TX
8. 3.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Company

1. 79–17011/02748
2. 42–103–00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 3359
6. McElroy
7. Crane, TX
8. 3.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Company

1. 79–17012/02749
2. 42–103–00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 4162
6. McElroy
7. Crane, TX
8. 10.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Company

1. 79–17013/02750
2. 42–103–00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 4414
6. McElroy
7. Crane, TX
8. .0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Company

1. 79–17014/02764
2. 42–103–00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 3738
6. McElroy
7. Crane, TX
8. 12.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Company

1. 79–17015/02765
2. 42–103–00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 3754
6. McElroy
7. Crane, TX
8. 4.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Company

1. 79–17016/02766
2. 42–103–00000
3. 103
4. Getty Oil Company
5. N McElroy Unit No 3725

6. McElroy
7. Crane, TX
8. 12.0 million cubic feet
9. August 15, 1979
10. Phillips Petroleum Company
1. 79–14845/02273 Revised
2. 42–475–31564
3. 102 103
4. HNG Oil Company
5. Nordan Trust 45 #1 ID #77510
6. Barstow (Wolfcamp)
7. Ward, TX
8. 396.0 million cubic feet
9. July 31, 1979
10. Northern Natural Gas Company
1. 79–14854/02786 Revised
2. 42–455–30293
3. 102 103
4. HNG Oil Company
5. Richards Mary E #1 ID–80700
6. Apple Springs (Glen Rose)
7. Trinity, TX
8. 134.0 million cubic feet
9. July 31, 1979
10.

United States Geological Survey, Albuquerque, N. Mex.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79–16950/NM–1827–79
2. 30–045–08864–0000–C
3. 108 Denied
4. Ladd Petroleum Corporation
5. Farmington #1–4
6. Basin Dakota
7. San Juan, NM
8. 14.0 million cubic feet
9. August 13, 1979
10. Southern Union Gathering Co
1. 79–16951/NM–1809–79
2. 30–039–21829–0000–0
3. 103
4. El Paso Natural Gas Company
5. Rincon Unit 231
6. Basin
7. Rio Arriba, NM
8. 100.0 million cubic feet
9. August 14, 1979
10. El Paso Natural Gas Company
1. 79–17017/NM–2067–79
2. 30–043–07008–0000–0
3. 108
4. El Paso Natural Gas Company
5. Stromberg Y #6
6. Ballard-Pictured Cliffs Gas
7. Sandoval, NM
8. 10.6 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79–17018/NM–1621–79
2. 30–045–20840–0000–0
3. 108
4. El Paso Natural Gas Company
5. NYE 7
6. Aztec-Pictured Cliffs Gas
7. San Juan, NM
8. 10.2 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79–17019/NM–2070–79
2. 30–045–11428–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 32–9 Unit #48
6. Blanco-Mesaverde Gas
7. San Juan, NM
8. 7.0 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79–17020/NM–2069–79
2. 30–039–05458–0000–0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit #41
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 17.5 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79–17021/NM–2068–79
2. 30–039–06929–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 27–5 Unit 4 MV & PC
6. Blancio-MV & Tapacito-PC Gas
7. Rio Arriba, NM
8. 16.0 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company, North Pipeline Corp
1. 79–17022/NM–2066–79
2. 30–039–07499–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 29–4 Unit #18
6. Blanco-Mesaverde Gas
7. Rio Arriba, NM
8. 5.0 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79–17023/NM–2065–79
2. 30–039–60074–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 28–5 Unit #36
6. Blanco-Mesaverde Gas
7. Rio Arriba, NM
8. 16.8 million cubic Feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79–17024/NM–1632–79
2. 30–039–60032–0000–0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #21
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 11.7 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79–17025/NM–1631–79
2. 30–039–05527–0000–0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit #19
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 13.9 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79–17026/NM–1630–79
2. 30–045–11458–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 32–9 Unit NP 79
6. Blanco-Mesaverde Gas
7. San Juan, NM
8. 4.0 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79–17027/NM–1629–79
2. 30–039–20175–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 28–4 Unit #33
6. Basin-Dakota Gas
7. Rio Arriba, NM
8. 18.0 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79–17028/NM–1628–79
2. 30–039–05480–0000–0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit #8
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 16.0 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79–17029/NM–1627–79
2. 30–045–09102–0000–0
3. 108*
4. El Paso Natural Gas Company
5. Schoen 1
6. Aztec-Pictured Cliffs Gas
7. San Juan, NM
8. 8.8 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79–17030/NM–1626–79
2. 30–039–07202–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ Unit #62
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 4.0 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp
1. 79–17031/NM–1625–79
2. 30–045–06360–0000–0
3. 108
4. El Paso Natural Gas Company
5. Rowley B 2
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan, NM
8. 2.0 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79–17032/NM–1624–79
2. 30–039–20174–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 28–4 Unit #32
6. Basin-Dakota Gas
7. Rio Arriba, NM
8. 8.4 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79–17033/NM–1623–79
2. 30–045–09019–0000–0
3. 108
4. El Paso Natural Gas Company
5. Ludwick 16

6. Basin-Dakota Gas
7. San Juan, NM
8. 17.0 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79-17034/NM-1622-79
2. 30-039-05361-0000-0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit #33
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 8.0 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79-17035/NM-1525-79
2. 30-039-20075-0000-0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #140
6. Otero-Chacra Gas
7. Rio Arriba, NM
8. 11.0 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp
1. 79-17036/NM-1455-79-2
2. 30-045-06762-0000-0
3. 108
4. El Paso Natural Gas Company
5. Turner Hughes #3
6. Blanco South-Pictured Cliffs Gas
7. San Juan, NM
8. 5.5 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79-17037/NM-1455-79-1
2. 30-045-07351-0000-0
3. 108
4. El Paso Natural Gas Company
5. Storey C 14
6. Basin-Dakota Gas
7. San Juan, NM
8. 1.0 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79-17038/NM-1453-79
2. 30-039-05733-0000-0
3. 108
4. El Paso Natural Gas Company
5. Hall 2
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 1.5 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79-17039/NM-1452-79
2. 30-045-09114-0000-0
3. 108
4. El Paso Natural Gas Company
5. Murphy B 1
6. Aztec-Pictured Cliffs Gas
7. San Juan, NM
8. 6.2 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79-17040/NM-1451-79
2. 30-039-20411-0000-0
3. 108
4. El Paso Natural Gas Company
5. Klein 16
6. Otero-Chacra Gas
7. Rio Arriba, NM
8. 14.0 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79-17041/NM-1450-79
2. 30-039-07007-0000-0
3. 108
4. El Paso Natural Gas Company
5. Ripley #1
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 5.0 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79-17042/NM-1349-79
2. 30-039-06102-0000-0
3. 108
4. Gulf Oil Corporation
5. Little Angel Well #1
6. Tapacito Pictured Cliffs
7. Rio Arriba, NM
8. 11.6 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79-17043/NM-1348-79
2. 30-039-06072-0000-0
3. 108
4. Gulf Oil Corporation
5. Stevie Joe Well #3
6. Blanco Pictured Cliffs South
7. Rio Arriba, NM
8. 8.6 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Company
1. 79-17044/NM-1347-79
2. 30-039-06143-0000-0
3. 108
4. Gulf Oil Corporation
5. Stevie Joe Well No. 1
6. Tapacito Pictured Cliffs
7. Rio Arriba, NM
8. 12.4 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Co
1. 79-17045/NM-1078-79
2. 30-039-05548-0000-0
3. 108
4. Gulf Oil Corporation
5. Apache Federal Well No. 1
6. Ballard Pictured Cliffs
7. Rio Arriba, NM
8. 7.0 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Co
1. 79-17046/NM-1077-79
2. 30-039-05448-0000-0
3. 108
4. Gulf Oil Corporation
5. Apache Federal Well No. 1
6. Ballard Pictured Cliffs
7. Rio Arriba, NM
8. 6.0 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Co
1. 79-17047/NM-1076-79
2. 30-045-06555-0000-0
3. 108
4. Gulf Oil Corporation
5. Fullerton Federal Well No. 4
6. Kutz Pictured Cliffs West
7. San Juan, NM
8. 13.7 million cubic feet
9. August 17, 1979
10. Gas Company of New Mexico
1. 79-17048/NM-1075-79
2. 30-045-06475-0000-0
3. 108
4. Gulf Oil Corporation
5. Fullerton Federal Well No. 1
6. Kutz Pictured Cliffs West
7. San Juan, NM
8. 5.2 million cubic feet
9. August 17, 1979
10. Gas Company of New Mexico
1. 79-17049/NM-1074-79
2. 30-039-05483-0000-0
3. 108
4. Gulf Oil Corporation
5. Apache Federal Well No. 1
6. Ballard Pictured Cliffs
7. Rio Arriba, NM
8. 2.9 million cubic feet
9. August 17, 1979
10. El Paso Natural Gas Co
1. 79-17050/NM-1073-79
2. 30-045-06299-0000-0
3. 108
4. Gulf Oil Corporation
5. Douthit Federal Well No. 1
6. Kutz Pictured Cliffs West
7. San Juan County, NM
8. 13.9 million cubic feet
9. August 17, 1979
10. Gas Company of New Mexico
1. 79-17051/NM-1072-79
2. 30-045-06241-0000-0
3. 108
4. Gulf Oil Corporation
5. Douthit Federal Well No. 2
6. Gallegos Fruitland
7. San Juan, NM
8. 8.2 million cubic feet
9. August 17, 1979
10. Gas Company of New Mexico
1. 79-17052/NM-750-79
2. 30-045-06741-0000-0
3. 108
4. Depco Inc
5. Mudge "A" 6
6. West Kutz (Pictured Cliffs)
7. San Juan, NM
8. 9.0 million cubic feet
9. August 17, 1979
10. Gas Company of New Mexico

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before October 3, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb

Secretary.

[FR Doc. 79-28891 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. E-8769]

Florida Power & Light Co.; Compliance Filing

September 11, 1979.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FP&L) on May 18, 1979 tendered for filing in compliance with Commission letter order approving settlement rates dated September 21, 1979, rates schedules for service to the City of Vero Beach, the City of Homestead and Lake Worth Utilities Commission.

On June 29, 1979, FP&L tendered for filing in compliance with the above-mentioned letter order rate schedules for service to Florida Power Corporation, Tampa Electric Company, Jacksonville Electric Authority and Orlando Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28879 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-455]

Montana-Dakota Utilities Co.; Application

September 10, 1979.

Take notice that on August 23, 1979, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP79-455 an application pursuant to Section 311 (a)(1) of the Natural Gas Policy Act of 1978 and Section 284.200, *et seq.*, of the Regulations thereunder (18 CFR 284.200, *et seq.*) for authorization to transport natural gas in interstate commerce for one year for Georgia-Pacific Corporation (G-F) to displace middle distillate oil as fuel, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that G-P is a direct purchaser of natural gas from Applicant for use at G-P's plant near Himes, Wyoming, for Priority 2 and Priority 4 purposes under the curtailment plan in Applicant's tariff. G-P's base period annual requirements are said to be 21,696 Mcf in Priority 2 and 386,304 Mcf in Priority 4. For the supply year, July 1, 1979, through June 30, 1980, Priority 4 deliveries will be curtailed 80 percent; and G-P will be allocated a total of 98,957 Mcf of gas, which is said to be insufficient for G-P to continue normal operations. Therefore, the application states, G-P has installed alternate fuel facilities which use middle distillate oil as fuel to supplant the curtailed natural gas.

The application states that The Montana Power Company (Montana Power) and G-P have entered into an agreement for the sale and purchase of gas to displace fuel oil as contemplated by 10 CFR, Part 595, for a term of one year. The annual volume of gas is said to be 500,000 Mcf and G-P would be obligated to take or pay for 350,000 Mcf if available and tendered. The maximum daily volume would be 1,712 Mcf. Since the gas would be imported from Canada by Montana Power the price to be paid by G-P would be the Canadian border price per million Btu plus Montana Power's cost of service, including but not limited to compressor fuel priced at the Canadian border price, operations and maintenance expenses, depreciation, taxes, and a reasonable return on Montana Power's investment. The cost of service is said to be, by agreement, 4.267 percent of the Canadian border price in dollars per million Btu plus a delivery charge of 11.6 cents per Mcf delivered.

Applicant proposes to transport G-P's gas from an existing interconnection with Montana Power near Warren, Carbon County, Montana, to G-P's plant near Himes, Wyoming, for 4.25 cents per Mcf. Applicant would retain one percent of the gas transported for lost and unaccounted-for gas in its system.

The application states that G-P has received from the Economic Regulatory Administration certification of eligible use of natural gas to displace oil pursuant to 10 CFR, Part 595.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 28, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28880 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-456]

Owens-Corning Fiberglas Corp.; Petition for Declaratory Order

September 10, 1979.

Take notice that on August 15, 1979, Owens-Corning Fiberglas Corporation (Petitioner), c/o Ramond D. Hurley, Connole and O'Connell, One Farragut Square South, Washington, D.C. 20006, filed in Docket No. CP79-456 a petition for a declaratory order to the effect that Petitioner may use the provisions of Section 157.45, *et seq.*, of the Regulations under the Natural Gas Act (18 CFR 157.45, *et seq.*), as a direct customer of an interstate natural gas pipeline company, Transcontinental Gas Pipe Line Corporation (Transco), as authority for the emergency transportation of natural gas in interstate commerce, all as more fully set forth in the petition on file with the Commission and open to public inspection.

Petitioner states that as a direct customer of Transco it will receive 436,000 dt equivalent of natural gas for the winter period commencing November 1, 1979, for use at its Anderson, South Carolina, plant. This allocation of gas from Transco is said to represent a 71 percent curtailment of supply to Petitioner of its contract demand. In order to meet this deficiency for the coming winter, Petitioner states, it is endeavoring to obtain temporary storage from a distribution company which is also a customer of Transco. The gas which would be placed in temporary storage is gas which Petitioner is entitled to receive from Transco for the summer season ending October 31, 1979, and which is excess to Petitioner's need for the present period. Petitioner states that if it is unable to obtain the temporary storage service it will lose whatever entitlement it has through the summer period from Transco which it is unable to utilize at its plant as of October 31, 1979, inasmuch as the gas entitlement accruing during the summer period can not be held over into the winter period.

By order of September 1, 1976, the Federal Power Commission found that emergency transportation by Petitioner was within the spirit and intent of

Section 2.68 of the General Policy and Interpretations (18 CFR 2.68), and Petitioner asks that a similar interpretation be made of Section 157.45, *et seq.*

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 28, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28881 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

Pipelines; Tentative Valuations

Notice is hereby given that tentative valuations are under consideration for the common carriers by pipeline listed below:

1978 Reports, September 14, 1979

Valuation Docket No. PV

1364 Acorn Pipe Line Company, P.O. Box 5008, Houston, TX 77012
1414 Allegheny Pipeline Company, P.O. Box 2521, Houston, TX 77001
1439 Amdel Pipe Line, Inc., P.O. Box 2159, Dallas, TX 75221
1440 American Petrofina Pipe Line Company, P.O. Box 2159, Dallas, TX 75221
1302 Amoco Pipeline Company, P.O. Box 6110-A, Chicago, IL 60680
1378 Arapahoe Pipe Line Company, 1650 East Golf Road, Schaumburg, IL 60196
1329 Arco Pipe Line Company, Arco Building, Independence, KS 67301
1291 Ashland Pipe Line Company, 1409 Winchester Avenue, Ashland, KY 41101
1381 Badger Pipe Line Company, P.O. Box 300, Tulsa, OK 74102
1430 Belle Fourche Pipeline Company, P.O. Drawer 2360, Casper, WY 82602
1425 Black Lake Pipe Line Company, P.O. Box 308, Independence, KS 67301
1322 Buckeye Pipe Line Company, P.O. Box 368, Emmaus, PA 18049
1382 Butte Pipe Line Company, P.O. Box 2648, Houston, TX 77001
1404 Calnev Pipe Line Company, 1901 Slover Avenue, Bloomington, CA 92316
1416 Chevron Pipe Line Company, 575 Market Street, San Francisco, CA 94105
1368 Cheyenne Pipeline Company, P.O. Box 370, Cody, WY 82414
1427 Chicap Pipe Line Company, 1650 East Golf Road, Schaumburg, IL 60196
1312 Cities Service Pipe Line Company, P.O. Box 300, Tulsa, OK 74102
1433 Collins Pipeline Company, P.O. Box 2511, Houston, TX 77001
1422 Colonial Pipeline Company, Lenox Towers, P.O. Box 18855, Atlanta, GA 30326
1316 Continental Pipe Line Company, P.O. Drawer 1267, Ponca City, OK 74601
1426 Cook Inlet Pipe Line Company, P.O. Box 900, Dallas, TX 75221
1341 CRA, Inc., 3315 North Oak Trafficway, Kansas City, MO 64116
1365 Crown-Rancho Pipe Line Corporation, 6750 West Loop South, Suite 300, Bellaire, TX 77401
1349 Diamond Shamrock Corporation, P.O. Box 631, Amarillo, TX 79173
1411 Dixie Pipeline Company, P.O. Box 2220, Houston, TX 77001
1385 Emerald Pipe Line Corporation, P.O. Box 631, Amarillo, TX 79173
1338 The Eureka Pipe Line Company, 963 Market Street, Parkersburg, W. VA 26101
1441 Explorer Pipeline Company, P.O. Box 2650, Tulsa, OK 74101
1394 Exxon Pipeline Company, P.O. Box 2220, Houston, TX 77001
1389 Four Corners Pipe Line Company, 1957 East Del Amo Blvd., Compton, CA 90220
1402 Getty Pipeline Inc., 1437 South Boulder Avenue, Tulsa, OK 74119
1436 Gulf Central Pipeline Company, 1200 Thompson Building, Tulsa, OK 74103
1333 Gulf Refining Company, P.O. Box 3706, Houston, TX 77001
1409 Hess Pipeline Company, P.O. Box 502, Woodbridge, NJ 07095
1431 Hydrocarbon Transportation, Inc., 2223 Dodge Street, Omaha, NE 68102
1406 Jayhawk Pipeline Corporation, P.O. Box 1030, Wichita, KS 67201
1413 Jet Lines, Inc., 522 Cottage Grove Road, Bloomfield, CT 06002
1375 Kaneb Pipe Line Company, P.O. Box 22029, Houston, TX 77027
1299 Kaw Pipe Line Company, P.O. Box 42130, Houston, TX 77042
1399 Kenai Pipe Line Company, 575 Market Street, San Francisco, CA 94105
1429 Kerr-McGee Pipeline Corporation, Kerr-McGee Center, Oklahoma City, OK 73125
1435 Kiantone Pipeline Corporation, P.O. Box 780, Warren, PA 16365
1419 Lake Charles Pipe Line Company, P.O. Drawer 1267, Ponca City, OK 74601
1354 Lakehead Pipe Line Company, Inc., 3025 Tower Avenue, Superior, WI 54880
1403 Laurel Pipe Line Company, P.O. Box 3706, Houston, TX 77001
1392 Marathon Pipe Line Company, 539 South Main Street, Findlay, OH 45840
1357 Michigan-Ohio Pipeline Corporation, 600 West Pickard Street, Mt. Pleasant, MI 48858
1395 Mid-America Pipeline System Division, 1800 South Baltimore Avenue, Tulsa, OK 74119
1353 Mid-Valley Pipeline Company, P.O. Box 2039, Tulsa, OK 74102
1384 Minnesota Pipe Line Company, 4111 E. 37th Street, North, Wichita, KS 67220
1311 Mobil Pipe Line Company, First International Building, 1201 Elm, Dallas, TX 75270
1292 Ohio River Pipe Line Company, 1409 Winchester Avenue, Ashland, KY 41101
1417 Olympic Pipe Line Company, P.O. Box 900, Dallas, TX 75221
1420 Paloma Pipe Line Company, 1600 First National Bank Building, Dallas, TX 75202
1320 Phillips Pipe Line Company, 890 Adams Building, Bartlesville, OK 74004
1372 Pioneer Pipe Line Company, P.O. Drawer 1267, Ponca City, OK 74601
1343 Plantation Pipe Line Company, P.O. Box 18616, Atlanta, GA 30326
1367 Platte Pipe Line Company, 539 South Main Street, Findlay, OH 45840
1410 Portal Pipe Line Company, 2900 First National Bank Building, Dallas, TX 75202
1347 Portland Pipe Line Corporation, P.O. Box 2590-30 Hill Street, South Portland, ME 04106
1437 Powder River Corporation, 890 Adams Building, Bartlesville, OK 74004
1327 Pure Transportation Company, 1650 East Golf Road, Schaumburg, IL 60196
1428 Santa Fe Pipe Line Company, 1200 Thompson Building, Tulsa, OK 74103
1369 The Shamrock Pipe Line Corporation, P.O. Box 631, Amarillo, TX 79173
1326 Shell Pipe Line Corporation, P.O. Box 2648, Houston, TX 77001
1335 Sohio Pipe Line Company, P.O. Box 5774, Cleveland, OH 44101
1424 Southcap Pipe Line Company, 1650 East Golf Road, Schaumburg, IL 60196
1393 Southern Pacific Pipe Lines, Inc., 610 South Main Street, Los Angeles, CA 90014
1370 Sun Oil Line Company of Michigan, P.O. Box 2039, Tulsa, OK 74102
1315 Sun Pipe Line Company, P.O. Box 2039, Tulsa, OK 74102
1386 Tecumseh Pipe Line Company, P.O. Box 308, Independence, KS 67301
1300 Texaco-Cities Service Pipe Line Company, P.O. Box 42130, Houston, TX 77042
1408 Texas Eastern Transmission Corporation, (Little Big Inch Division), P.O. Box 2521, Houston, TX 77001
1293 Texas-New Mexico Pipe Line Company, P.O. Box 42130, Houston, TX 77042
1330 The Texas Pipe Line Company, P.O. Box 42130, Houston, TX 77042
1449 Texoma Pipe Line Company, 1810 Fourth National Bank Building, Tulsa, OK 74119
1379 Trans Mountain Oil Pipe Line Corporation, 400 East Broadway, Vancouver, British Columbia, Canada V5T1X2
1412 Trans-Ohio Pipeline Company, P.O. Box 2521, Houston, TX 77001
1388 West Emerald Pipe Line Corporation, P.O. Box 631, Amarillo, TX 79173
1396 West Shore Pipe Line Company, 200 East Randolph Drive, Chicago, IL 60601
1362 West Texas Pipe Line Company, P.O. Box 3706, Houston, TX 77001
1421 White Shoal Pipeline Corporation, Kerr-McGee Center, Oklahoma City, OK 73102
1423 Williams Pipe Line Company, P.O. Drawer 3448, Tulsa, OK 74101
1377 Wolverine Pipe Line Company, P.O. Box 900, Dallas, TX 75221

1355 Wyco Pipe Line Company, 200 East Randolph Drive, Chicago, IL 60601
1373 Yellowstone Pipe Line Company, P.O. Drawer 1267, Ponca City, OK 74601

On or before October 22, 1979, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in these valuations may file, pursuant to rule 72 of the Interstate Commerce Commission's "General Rules of Pratice" (49 CFR 1100.72), an original and three copies of a petition for leave to intervene in this proceeding. Jurisdiction over oil pipelines, as it relates to establishment of valuations for pipelines, was transferred from the Interstate Commerce Commission to the Federal Energy Regulatory Commission (FERC), pursuant to sections 306 and 402 of the Department of Energy Organization Act, 42 U.S.C. §§ 7155 and 7172, and Executive Order No. 12009, 42 FR 46267 (September 15, 1977).

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the act, thereby enabling it to file a protest. It is required that a copy of the petition to intervene be served on the individual company at the address shown above and that an appropriate certificate of service be attached to the petition. Persons specifically designated in section 19a(h) of the act need not file a petition: they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 79-28917 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP77-59, et al.]

South Texas Natural Gas Gathering Corp., et al.; Filing of Pipeline Refund Reports and Refund Plans

September 11, 1979.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before September 21, 1979. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
7/23/79	South Texas	RP77-59	Report.
8/15/79	Hampshire Gas	RP75-97	Report.
8/23/79	United Gas	G-9547	Plan.
8/24/79	Columbia Gulf	RP78-19	Report.
8/29/79	El Paso	RP78-18	Report.

[FR Doc. 79-28882 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-5]

State of Louisiana, Section 103 NGPA Determinations, Laterre Co., Inc., C No. 14 Well, API No. 1710921997, Louisiana Doc. No. NGPA 79-487; Final Order on Well Category Determination

Issued: September 7, 1979.

On May 4, 1979 the Commission issued a Notice of Preliminary Finding that the determination by the State of Louisiana Office of Conservation (Louisiana) that the Laterre Company Inc. C No. 14 well qualifies as a new onshore production well under section 103 of the Natural Gas Policy Act of 1978 (NGPA) was not supported by substantial evidence in the record on which the determination was based.

To qualify as a new onshore production well under section 103 of the NGPA, a well, among other requirements must not be located on certain existing proration units; Section 103(c)(3) of the NGPA. Section 271.305 of our Regulations (18 CFR § 271.305) enumerates the special circumstances where a new well can be drilled on an existing proration unit and still be eligible for a section 103 determination. For a well drilled between February 19, 1977 and December 31, 1978, the jurisdictional agency authorizing the drilling of the new well must find from the record evidence developed prior to the commencement of drilling that the new well was necessary to drain effectively and efficiently a portion of the reservoir covered by the proration unit, which could not be effectively and efficiently drained by an existing well located on the unit (18 CFR § 271.305(c)).

The information accompanying the determination submitted by Louisiana to the Commission indicates that the C 14 well, spudded on January 31, 1978, is approximately 600 feet from Pennzoil well No. C-12. The Louisiana well spacing rules, (of which the Commission took notice in the preliminary finding and which are materials in the public files of the Commission) provide that wells ". . . drilled in search of gas shall not be located closer than . . . 2000 feet to any other well completed in, drilling to, or for which a permit shall have been granted to drill to, the same pool." (Statewide Order No. 29-E). The record accompanying Louisiana's original determination did not indicate a waiver by Louisiana of its well spacing rules, or any indiciation that the C-12 well stopped producing in February, 1973.

Furthermore as noted in the notice of preliminary finding, Commission believes that the spacing requirement referred to above creates a "proration unit" as that term is defined in section 2(8) of the NGPA. The spacing requirements represent a judgment that as a general matter a well in this area of Louisiana could effectively and efficiently drain a circular area with a radius of 1000 feet. However, the notice of determination did not contain a finding that the C-14 well which appeared to be a second well in the proration unit was necessary to effectively and efficiently drain a portion of the reservoir which could not be effectively and efficiently drained by the Pennzoil C-12 well.

On August 27, 1979, Louisiana submitted a supplement to its determination in which it states that the completion of the subject well in the 14,900' sand was in full compliance with Statewide Order No. 29-E, governing well spacing. The supplemental filing included an affidavit from Pennzoil which stated that the C-12 well ceased production on February 24, 1973 and the allowable for that well was cancelled on May 9, 1973. Furthermore, Louisiana stated that the issuance of the drilling permit for the subject well constituted an implicit finding, prior to commencement of drilling, that the subject well was necessary to effectively and efficiently drain a portion of the reservoir that could not have been so drained by any other existing well.

On the basis of the August 27, 1979 filing by Louisiana, the Commission finds that the C-14 well satisfies applicable well spacing requirements. Since our preliminary finding that the C-14 well is a second well in a proration unit was based solely on our conclusion that the applicable well spacing requirements were not met, we now find that the subject well is not a second well in a proration unit and the effective and efficient finding of § 271.305(c) of our Regulations does not apply.

Thus, pursuant to 18 CFR § 275.202(e) the Commission orders that Louisiana's determination that the Laterre Company Inc. C No. 14 well qualifies as a new,

onshore production well under section 103 of the NGPA, be affirmed.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28883 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-34]

State of Louisiana, Section 103 Determination, Union Oil Co. of California, CIB C6 RB VUA, Laterre Co., Inc. "C", No. 11 Well, API Well No. 1710920978, JD No. 79-3449, Louisiana NGPA No. 79-789; Final Order On Well Category Determination

Issued: September 7, 1979.

On June 15, 1979, the Federal Energy Regulatory Commission (Commission) issued a Notice of Preliminary Finding which stated that the State of Louisiana determination that the above referenced well (Laterre C No. 11) was a new, onshore production well, as defined by section 103 of the Natural Gas Policy Act of 1978, was not supported by substantial evidence in the record upon which the determination was based.

To qualify as a new, onshore production well under Section 103 of the NGPA, a well, among other requirements, must not be located on certain existing proration units. Section 103(c)(3) of the NGPA. Section 271.305 of the regulations (18 CFR § 271.305) enumerates the special circumstances where a new well can be drilled on an existing proration unit and still be eligible for a Section 103 determination. This regulation requires a finding by the jurisdictional agency prior to commencement of drilling that the well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing well within the proration unit.

The information accompanying the determination indicated that an original well existed in the Cibicides carstensi 6 Sand Unit prior to February 19, 1977. On March 14, 1978, drilling commenced for the subject well which was located in the same unit. Since the subject well appeared to be a second well on an existing proration unit as described in Section 103(c); and the requisite effective and efficient drainage finding was not made by Louisiana, the Commission determined in the June 15, 1979 Notice of Preliminary Finding that the determination was not supported by substantial evidence.

On July 6, 1979, Louisiana submitted a supplement to its determination stating that the Cibicides carstensi 6 Sand Unit is not a proration unit as that term is defined in section 2(8) of the NGPA. Louisiana states that a voluntary unit agreement can only be a proration unit as that term is used in the NGPA where it is established "for the purpose of describing the portion of a reservoir which may be effectively and efficiently drained by a single well." Section 2(8)(C) of the NGPA. Louisiana further states that article 6 of the *Pooling and Unitization Agreement* for the subject unit provides that "(n)either the creation of the aforesaid unit, nor anything herein contained, is intended to imply that the area comprising such unit will, or will not, be effectively and economically drained by one well . . ." Louisiana concludes that this language excludes the unit from the definition of proration unit under section 2(8) of the NGPA. Furthermore, Louisiana notes that it has never designated any portion of the Cibicides carstensi No. 6 Sand as a proration unit.

The staff's further analysis of the record and the additional information submitted indicates that the voluntary Pooling and Unitization Agreement does not constitute a proration unit. There are no other wells within 2000' of the subject well that are producing from the same reservoir and this complies with the state's well spacing requirements. It is this 2000' well spacing rule which creates a defacto proration unit.

We conclude therefore that the subject well was not a second well in an existing proration unit, as that term is defined in section 2(8) of the NGPA. Accordingly, no effective and efficient drainage finding regarding the subject well was required in order for the well to qualify as a new, onshore production well under section 103 of the NGPA.

Thus, pursuant to 18 CFR § 275.202(e), the Commission finds that Louisiana's determination that the Union Oil Company of California CIB C6 RB VUA Laterre Co., Inc. "C" No. 11 well qualifies as a new, onshore production well under section 103 of the NGPA is supported by substantial evidence and orders that the determination be affirmed.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28884 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-120]

State of Louisiana, Section 108 NGPA Determination, Amax Petroleum Corp., Delacroix Corp. No. 1 Well, JD79-13791, LA. No. NAPA 79-1710; Preliminary Finding

Issued: September 7, 1979.

On July 26, 1979, the Commission received notice from the State of Louisiana Department of Natural Resources Office of Conservation that the Delacroix Corp. No. 1 well meets all the requirements of a stripper well under section 108 of the Natural Gas Policy Act of 1978 (NGPA), 92 Stat. 3350. The Commission published notice of the determination on August 10, 1979.

Section 108(b)(1)(A) of the NGPA provides that in order to qualify as a stripper well, a well must produce non-associated natural gas at a rate which did not exceed an average of 60 Mcf per production day during the 90-day production period. Section 108(b)(3)(A) defines "production day" as (1) any day during which natural gas is produced, and (2) any day during which natural gas is not produced if production during such day is prohibited by a requirement of state law or a conservation practice recognized or approved by the state agency having regulatory jurisdiction over natural gas production.

The data submitted with this determination purport to demonstrate that average production for the well was calculated on a basis of 90 qualifying "production days" in the 90-day production period. However,the data also illustrate that during 47 days of the 90-day production period the well did not produce due to a physical impediment (inability to meet existing line pressure). The applicant claims that the 47 days during which the well did not produce qualify as "production days" because production on those days was prohibited by a conservation practice recognized by the State agency. However, the notice of determination submitted by the jurisdictional agency does not contain a finding by that agency that the facts in this case present a situation where prudent conservation practice requires intermittent shut-in of the well.[1] Accordingly, there is a lack of substantial evidence that these 47 days meet the statutory definition of "production days."

[1] Such a finding should, as a minimum, verify the particular physical impediment which requires the intermittent shut-in and the number of days of such shut-in, explain the conservation practice which the jurisdictional agency recognizes as applicable in the particular case, and explain why the conservation practice as applied to the subject well is necessary to achieve and maintain production. See 18 CFR § 274.104(a)(6).

If total production from this well for the 90-day production period is divided by the number of qualifying "production days" (43 rather than 90), the well is shown to produce an average of 80 Mcf per production day. Accordingly, the well production appears to exceed an average of 60 Mcf per production day during the 90-day production period.

The Commission hereby makes a preliminary finding, pursuant to 18 CFR § 275.202(a)(1)(i), that the notice of determination submitted by the State of Louisiana Department of Natural Resources for the above-referenced well is not supported by substantial evidence.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28885 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-121]

State of Louisiana, Section 108 NGPA Determination, K.D. Lankford, Jr. and L & N Drilling Co., Meeks No. 1 Well, JD79-13871, LA No. NGPA79-1859; Preliminary Finding

Issued: September 7, 1979.

On July 26, 1979, the Commission received a notice of determination from the State of Louisiana Department of Natural Resources that the Meeks No. 1 well meets all the requirements of a stripper well under section 108 of the Natural Gas Policy Act of 1978 (NGPA). The Commission published notice of the determination on August 13, 1979.

Section 108(b)(1)(A) of the NGPA defines stripper well natural gas as "nonassociated natural gas produced during any month from a well if during the preceding *90-day production period*, such well produced nonassociated natural gas at a rate which did not exceed an average of 60 Mcf per production day during such period * * *" (emphasis added.)

The data submitted with this determination indicate that the well was completed on July 3, 1978 and put on line on September 15, 1978. The 90-day production period upon which the application is based covers the period upon which the application is based covers the period September 1, 1978 to November 30, 1978.[1] Accordingly, the 90-day production period begins 14 days prior to the well's being put on line.

Section 108(b)(3)(B) provides a definition for the term "90-day production period",[2] but it does not address the issue of whether or not the 90-day production period may begin before the well is actually on line. The Commission believes that the term "90-day production period" must be read to refer to a *production* period, i.e., to a period during which the well had actually begun to *produce*.

Inclusion of a period of days prior to connection of the well does not permit the jurisdictional agency and the Commission to review a record which sets forth the well's production pattern and rate of production over the minimum period of time prescribed by the statute. While in the case of this particular determination the number of days during which the well was not on line represents a small portion of the 90-day period under consideration, in another case it is conceivable that an applicant could produce a new well for one day, designate the prior 89 days as part of the 90-day production period, and receive a determination as a stripper well on the basis of that 90-day production period. The Commission does not believe that this was the result Congress intended. Rather, Congress carefully constructed section 108 to provide for review of the production record of a well over a period of time in order to determine whether that well has established a pattern which indicates that it is eligible for a special, high price under the NGPA. The Commission believes it is a reasonable interpretation of the statute to require that the period of time to be scrutinized, i.e., the 90-day production period, be a period during which the well had actually begun to produce.[3]

Accordingly, the Commission hereby makes a preliminary finding, pursuant to 18 C.F.R. § 275.202(a)(1)(i) that the determination for the above-named well submitted by the State of Louisiana Department of Natural Resources is not supported by substantial evidence in the record.

[1] The well's Maximum Efficient Rate of Flow (MER) is established by a state well potential report indicating an MER of Mcf/day.

[2] The term is defined as follows: "90-day production period means any period of 90 consecutive calendar days excluding any day during which natural gas is not produced for reasons other than voluntary action of any person with the right to control production of natural gas from such well."

[3] The Commission believes that in this particular case it will have before it substantial evidence that the well qualifies as a stripper well if, within the 120-day period before final Commission action must be taken on this determination (see § 275.202), (1) the applicant supplements his filing with production data for the 14 days following the 90 days upon which his aplication was based; (2) the jurisdictional agency submits this additional data to the Commission; and (3) such data indicate that the well's average production during the correctly-designated 90-day production period did not exceed 60 Mcf per production day.

By Direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28886 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. G-3912, *et al.*]

Tenneco Oil Co. (Operator) et al. Agent for Tema Oil Co. and Mesa Petroleum Co. (Operator) et al. Agent for Tema Oil Co.; Redesignation

September 10, 1979.

On May 7, 1979 and May 9, 1979, Tenneco Oil Company (Operator), *et al.*, as agent for Tema Oil Company (Tenneco) and Mesa Petroleum Company (Operator) *et al.*, as agent for Tema Oil Company (Mesa) filed applications to continue, as successors in interest, sales being made under certificates of public convenience and necessity previously issued to Ashland Exploration, Inc. (Ashland). Applicants request that Ashland's FERC Gas Rate Schedules for the sales involved be redesignated as Tenneco's or Mesa's in accordance with appendices attached to the applications. Approximately eighty-four rate schedules are involved covering sales to most, if not all of Ashland's pipeline purchasers. Applicants also request to be substituted for Ashland, as appropriate, in proceedings involving the above sales.

By assignment and conveyance dated April 30, 1979, and effective as of January 1, 1979, Ashland assigned to Tema properties as described in the applications.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein it fhe Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motive believes that a formal hearing is required, further notice of such hearing will be duly given.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 28, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions in

intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protest filed with Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Persons wishing to become parties to a proceeding or to participate as a part in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Exhibit A

Now: Tenneco Oil Co. (operator), et al., agent for Tema Oil Co., FERC gas rate schedule No.	Supplement No.	Certificate docket No.	Former: Ashland Exploration, Inc., FERC gas rate schedule No.	Purchaser
355	11	CI79-436 [1]	4	Lone Star Gas Company.
356	8	CI79-436 [1]	68	Lone Star Gas Company.
357	22	G-18117	69	Michigan-Wisconsin Pipe Line Company.
358	9	CI97-436 [1]	70	Lone Star Gas Company.
359	15	CI62-191	74	Natural Gas Pipeline Company of America.
360	39	CI60-738	78	Panhandle Eastern Pipeline Company.
361	17	CI63-401	80	Michigan-Wisconsin Pipe Line Company.
362	56	CI63-489	81	Michigan-Wisconsin Pipe Line Company.
363	32	G-4309	108	Panhandle Eastern Pipeline Company.
364	32	G-8447	110	Colorado Interstate Gas Company.
365	18	CI79-436 [2]	112	Cities Service Gas Company.
366	14	CI79-436 [2]	117	Phillips Petroleum Company.
367	14	CI79-436 [2]	118	Phillips Petroleum Company.
368	32	G-4328	120	Panhandle Eastern Pipeline Company.
369	13	G-7230	122	Northern Natural Gas Company.
370	16	G-8446	123	Colorado Interstate Gas Company.
371	31	G-9947	124	Natural Gas Pipeline Company of America.
372	8	G-10478	125	Panhandle Eastern Pipeline Company.
373	28	G-10546	127	Colorado Interstate Gas Company.
374	12	G-10606	128	Natural Gas Company of America.
375	18	G-12788	132	Kansas-Nebraska Natural Gas Company, Inc.
376	13	G-12802	133	Northern Natural Gas Company.
377	14	G-13929	134	Colorado Interstate Gas Company.
378	17	G-18916	137	Michigan-Wisconsin Pipe Line Company.
379	18	CI60-350	139	El Paso Natural Gas Company.
380	13	CI61-16	141	Panhandle Eastern Pipeline Company.
381	11	CI61-1361	145	Panhandle Eastern Pipeline Company.
382	12	CI64-159	153	Panhandle Eastern Pipeline Company.
383	19	CI64-423	154	Transwestern Pipeline Company.
384	10	CI64-446	155	Arkansas Louisiana Gas Company.
385	7	CI64-638	157	Warren Petroleum Corporation.
386	17	CI64-644	158	Natural Gas Pipeline Company of America.
387	16	CI64-681	159	Northern Natural Gas Company.
388	6	CI64-686	160	Arkansas Louisiana Gas Company.
389	15	CI64-1381	162	Arkansas Louisiana Gas Company.
390	19	CI64-1422	163	Oklahoma Natural Gas Company.
391	5	CI64-1440	164	Horizon Oil & Gas.
392	9	CI65-123	165	Kansas-Nebraska Natural Gas Company, Inc.
393	8	CI65-441	169	Natural Gas Pipeline Company of America.
394	6	CI65-545	170	Northern Natural Gas Company.
395	13	CI65-828	172	Panhandle Eastern Pipeline Company.
396	32	CI66-639	176	Cities Services Gas
397	5	CI67-341	179	Panhandle Eastern Pipeline Company.
398	8	CI67-751	182	Northern Natural Gas Company.
399	14	CI67-1098	184	Michigan-Wisconsin Pipe Line Company.
400	12	CI68-986	191	Colorado Interstate Gas Company.
401	9	CI69-864	195	Michigan-Wisconsin Pipe Line Company.
402	11	CI70-736	197	Arkansas Louisiana Gas Company.
403	12	CI70-1018	198	Oklahoma Natural Gas Company.
404	8	CI67-717	229	Northern Natural Gas Company.
405	6	CI73-276	235	Michigan-Wisconsin Pipe Line Company.
406	9	CI73-324	236	El Paso Natural Gas Company.
407	11	CI74-613	241	Michigan-Wisconsin Pipe Line Company.
408	5	CI75-590	245	Michigan-Wisconsin Pipe Line Company.
409	8	CI76-565	247	Panhandle Eastern Pipeline Company.
410	6	CI76-645	248	Colorado Interstate Gas Company.
411	3	CI76-739	249	Michigan-Wisconsin Pipe Line Company.
412	3	CI78-139	258	Michigan-Wisconsin Pipe Line Company.
413	3	CI78-209	264	Northern Natural Gas Company.
414	2	CI78-691	268	Michigan-Wisconsin Pipe Line Company.
415	3	CI78-614	269	Panhandle Eastern Pipeline Company.

[1] Previously covered by Ashland's certificate in Docket No. G-7663.
[2] Previously covered by Ashland's certificate in Docket No. G-3912.

Exhibit B

Now: Mesa Petroleum Co. (operator), et al., agent for Tema Oil Co., FERC gas rate schedule No.	Supplement No.	Certificate docket No.	Former: Ashland Exploration, Inc., FERC gas rate schedule No.	Purchaser
113	11	G-12309	59	Northern Natural Gas Company.
114	9	CI62-494	75	Northern Natural Gas Company.
115	10	CI62-908	77	Northern Natural Gas Company.
116	10	CI63-159	79	Northern Natural Gas Company.
117	17	G-4316	109	Panhandle Eastern Pipeline Company.
118	63	CI79-442[1]	111	Cities Service Gas Company.
119	14	CI79-442[1]	115	Mobile Oil Corporation.
120	7	CI79-442[1]	116	Northern Natural Gas Company.
121	15	G-4314	121	Panhandle Eastern Pipeline Company.
122	16	G-10803	129	Colorado Interstate Gas Company.
123	29	CI79-442[1]	135	Panhandle Eastern Pipeline Company.
124	35	CI61-24	142	Panhandle Eastern Pipeline Company.
125	5	CI61-73	143	Colorado Interstate Gas Company.
126	3	CI62-477	147	Northern Natural Gas Company.
127	7	CI62-540	148	Panhandle Eastern Pipe Line Company.
128	59	CI79-442[2]	150	Colorado Interstate Gas Company.
129	13	CI67-269	177	Panhandle Eastern Pipe Line Company.
130	15	CI67-228	178	Colorado Interstate Gas Company.
131	9	CI70-101	196	Colorado Interstate Gas Company.
132	5	CI75-521	244	Cities Service Gas Company.
133	7	CI76-791	250	Colorado Interstate Gas Company.
134	4	CI78-161	260	Colorado Interstate Gas Company.
135	5	CI78-671	267	Colorado Interstate Gas Company.

[1] Previously covered by Ashland's certificate in Docket No. G-3912.
[2] Supra.

[FR Doc. 79-28887 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP77-240]

Transcontinental Gas Pipe Line Corp.; Petition To Amend

September 7, 1979.

Take notice that on August 8, 1979, Transcontinental Gas Pipe Line Corporation (TRANSCO), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-240 a petition to amend the order of October 26, 1977, issued in said docket pursuant to Section 7(c) of the Natural Gas Act so as to extend the term of the gas transportation service for an additional two-year period and to authorize transportation from the consumer-customers' four new sources of gas supply for the proposed additional service, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Transco states that by the aforementioned order, it was authorized under Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) to transport up to 2,745 Mcf of natural gas per day to Long Island Lighting Company (LILCO), a Transco Rate Schedule CD-3 customer, for the account of the following existing LILCO consumer-customers: Cerro Wire & Cable Co., Division Cerro-Marmon Corporation; Entenmann's Inc.; Fabric Leather Corporation, a wholly-owned subsidiary of Borden, Inc.; Global Steel Products Corporation; Kaiser Aluminum & Chemical Corporation; Knickerbocker Partition Corporation; Lawrence Aviation Industries Inc.; and Gim Metals Products Division of Lightron Corporation.

Transco seeks authorization to extend the gas transportation service for an additional two-year period and proposes a decrease in the maximum transportation volume of 2,745 Mcf per day to 2,649 Mcf per day because one of the original consumer-customers participating in this service, Fabric Leather Corporation, has elected not to renew the service.

The consumer-customers have secured four new sources of supply for the proposed additional two year term of service. The sources and points of delivery to Transco are as follows:

Sources	Points of Delivery to Transco
Nicklos Oil & Gas Company, Orange County, Texas.	An existing point of interconnection between the system of Channel Industries Gas Company and Transco's system in Jim Wells County, Texas.
CMC Energy, Inc., Benavides Field Area, Duval County, Texas.	An existing delivery point on Transco's system in Duval County, Texas.
Entex, Inc. *et al.* Southwest Lake Boeuf Field Area, LaFourche Parish, Louisiana.	An existing delivery point on Transco's system in La Fourche Parish, Louisiana.
Southport Exploration, Inc. and Vulcan Materials Company Bayou Copasaw Field, Terrebonne Parish, Louisiana.	An existing delivery point on Transco's system in Terrebonne Parish, Louisiana.

In order to provide this service for an additional two-year period, Transco, LILCO, and Energy Buyers Service Corporation, acting as agent for the consumer-customers, have entered into a transportation agreement dated July 17, 1979. Pursuant to such agreement, Transco would charge an initial rate of 24.34 cents per dekatherm equivalent of gas delivered and retain, initially, 4.4 percent of the volumes transported as compressor fuel and line loss make-up.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 28, 1979 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc 79-28888 Filed 9-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. CI79-540, et al.]

Union Oil Co. of California, et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificate [1]

September 10, 1979.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 28, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rule of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket no. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI79-540, A, 7/16/79	Union Oil Company of California, Union Oil Center, Room 901, P.O. Box 7600, Los Angeles, Calif. 90051.	Texas Gas Transmission Corporation, Blocks A-531, A-536 and A-537, South Addition, High Island Area, Offshore Texas.	(1)	14.65
CI79-541, A, 7/16/79	Cities Service Company, P.O. Box 300, Tulsa, Oklahoma 74102.	Michigan Wisconsin Pipe Line Company, West Cameron Block 487, Offshore Louisiana.	(2)	15.025
CI79-542, A, 7/16/79	Diamond Shamrock Corporation, P.O. Box 631, Amarillo, Texas 79173.	Texas Gas Transmission Corporation, Edwin L. Cox—Intercoastal Shipyard, Inc. Well No. 1, "C" Sand Unit A, St. Mary Parish, Louisiana.	(3)	15.025
CI79-543 (CI76-581), B, 7/16/79	Florida Gas Exploration Company, P.O. Box 44, Winter Park, Florida 32790.	Florida Gas Transmission Company, No. 1 E. P. Brunet Well, N. Montegut Field, Terrebonne Parish, Louisiana.	Reserves have been depleted and the well is no longer productive.	
CI79-544, E, 7/16/79	Multistate Oil Properties, N.V. (Succ. in Interest to the Shenandoah Oil Corporation), P.O. Box 2511, Houston, Texas 77001.	Northern Natural Gas Co., Lovedale N.W., Woods County, Oklahoma.	(4)	14.65
CI79-545, B, 7/16/79	Halliburton Oil Producing Company, 300 Cameron Building, Oklahoma City, Okla. 73106.	Vickers Petroleum Corporation, Mustang Field, Canadian County, Oklahoma.	Casing Leak. Well not capable of producing.	
CI79-547, A, 7/20/79	Monsanto Company, 1300 Post Oak Tower, 5051 Westheimer, Houston, Texas 77056.	Columbia Gas Transmission Corporation, Certain acreage covered by OCS-G-2360 Lease, High Island, Block A-447, South Addition, and OCS-G-2361 Lease, High Island Block A-448, South Addition, Federal Offshore Texas.	(5)	14.65
CI79-548, A, 7/16/79	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Arkansas Oklahoma Gas Corporation, Certain acreage in the Peno Paw Paw Field, Sequoyah County, Oklahoma.	(6)	14.73
CI79-549, A, 7/19/79	Pioneer Production Corporation, P.O. Box 2542, Amarillo, Texas 79189.	Transcontinental Gas Pipe Line Corporation, Block 25, Vermilion Area, Offshore Gulf of Mexico.	(7)	15.025
CI79-550 (CI73-156), B, 7/23/79	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Tennessee Gas Pipeline Company, East Cameron Block 77, Offshore Louisiana.	Uneconomical and lease expired for lack of production and was released.	
CI79-551, A, 7/25/79	Pogo Producing Company, c/o Pennzoil Company, P.O. Box 2967, Houston, Texas 77001.	United Gas Pipe Line Company, High Island Block 356, East Addition, South Extension, Offshore Texas.	(8)	14.65
CI79-552, A, 7/25/79	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Northern Natural Gas Company, Vermilion Block 372 Field, Offshore Louisiana.	(9)	15.025
CI79-553, A, 7/25/79	Exxon Corporation	Columbia Gas Transmission Corporation, Vermilion Block 372 Field, Offshore Louisiana.	(9)	15.025
CI79-554, A, 7/25/79	Terra Resources, Inc., 5416 South Yale Avenue, Tulsa, Oklahoma 74135.	Transcontinental Gas Pipe Line Corporation Block 146, South Marsh Island Area, Gulf of Mexico.	(10)	15.025
CI79-555, A, 7/25/79	Pogo Producing Company, c/o Pennzoil Company, P.O. Box 2967, Houston, Texas 77001.	United Gas Pipe Line Company, High Island Block 273, East Addition, South Extension, Offshore Texas.	(8)	14.65
CI79-556, A, 7/25/79	Pogo Producing Company	United Gas Pipe Line Company, High Island Block 355, East Addition, South Extension, Offshore Texas.	(8)	14.65
CI79-557, A, 7/26/79	Ocean Production Company, *et al*, P.O. Box 61780, New Orleans, Louisiana 70161.	Michigan Wisconsin Pipe Line Company, East Cameron Block 38, Gulf of Mexico.	(11)	15.025
CI79-558, A, 7/27/79	Pogo Producing Company	United Gas Pipe Line Company, High Island Block 475, South Addition, Offshore Texas.	(8)	14.65
CI79-559, B, 7/27/79	W. L. Kirkman, Inc., P.O. Box 18611, Wichita, Kansas 67207.	Michigan Wisconsin Pipe Line Company, #1 Gill NW/4 36-24-14W; #1 Koelsch SW/4 25-24-14W. Stafford County, Kansas.	Marginal wells-small reserve unable to produce into interstate sales line. Low pressure intrastate line available.	
CI79-560, A, 7/27/79	Pogo Producing Company	United Gas Pipe Line Company, High Island Block 489, South Addition, Offshore Texas.	(8)	14.65
CI79-561, A, 7/27/79	Pogo Producing Company	United Gas Pipe Line Company, High Island Block 474, South Addition, Offshore Texas.	(8)	14.65
CI79-562, A, 7/30/79	Terra Resources, Inc.	Transcontinental Gas Pipe Line Corporation, High Island Area, Block A-317 Field, Gulf of Mexico.	(10)	15.025
CI79-563 (G-19498), B, 7/30/79	Phillips Petroleum Company, 5 C4 Phillips Building, Bartlesville, Okla. 74004.	Florida Gas Transmission Company, State Tract 55 Unit, East Corpus Christi Bay Field, Neuces County, Texas.	(12)	
CI79-564, A, 7/31/79	Pennzoil Louisiana and Texas, Offshore, Inc., c/o Pennzoil Company, P.O. Box 2967, Houston, Texas 77001.	United Gas Pipe Line Company, High Island Block 475, South Addition, Offshore Texas.	(8)	14.65

Docket no. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI79-565, A, 7/31/79	Pennzoil Oil & Gas, Inc, c/o Pennzoil Company, P.O. Box 2967, Houston, Texas 77001.	United Gas Pipe Line Company, High Island Block 356, East Addition, South Extension, Offshore Texas.	(*)	14.65
CI79-566, A, 7/31/79	Pennzoil Oil & Gas, Inc	United Gas Pipe Line Company, High Island Block 273, East Addition, South Extension, Offshore Texas.	(*)	14.65
CI79-567, A, 7/31/79	Pennzoil Oil & Gas, Inc	United Gas Pipe Line Company, High Island Block 474, South Addition, Offshore Texas.	(*)	14.65
CI79-568, A, 7/31/79	Pennzoil Oil & Gas, Inc	United Gas Pipe Line Company, High Island Block 475, South Addition, Offshore Texas.	(*)	14.65
CI79-569, A, 7/31/79	Pennzoil Oil & Gas, Inc	United Gas Pipe Block 489, South Addition, Offshore Texas.	(*)	14.65
CI79-570, A, 7/31/79	Pennzoil Oil & Gas, Inc	United Gas Pipe Line Company, High Island Block 355, East Addition, South Extension, Offshore Texas.	(*)	14.65
CI79-571, B, 8/3/79	An-Son Corporation, 3814 N. Santa Fe, Oklahoma City, Okla. 73118.	Southern Natural Gas Company, Bayou Postillion Field, Iberia Parish, Louisiana.	Nonproductive and continuation of service is unwarranted and unfeasible.	
CI79-573, A, 8/1/79	Quintana Oil & Gas Corp., P.O. Box 3331, Houston, Texas 77001.	Transcontinental Gas Pipe Line Corporation, Block A-317 Field, High Island Area, Gulf of Mexico.	(13)	14.65
CI79-574, A, 8/1/79	Quintana Offshore, Inc., P.O. Box 3331, Houston, Texas 77001.	Transcontinental Gas Pipe Line Corporation, Block A-317 Field, High Island Area, Gulf of Mexico.	(13)	14.65
CI79-601 (G-4014), B, 8/17/79	Bill R. Tipton, dba. Tipco Operating Company, *et al.*, P.O. Box 1315, Marshall, Texas 75670.	Mississippi River Transmission Corporation (Formerly Mississippi River Fuel Corp.), Woodlawn Field, Harrison and Marion Counties, Texas.	Depletion of reserves	

Filing code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 79-28889 Filed 9-17-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP79-122]

U.S.G.S. (New Mexico), section 102 Determination, Depco, Inc., Beal Federal Well No. 1, JD No. 79-13417, U.S.G.S. Docket No. NM-368-79; Preliminary Finding

September 7, 1979.

On July 25, 1979, the United States Department of the Interior Geological Survey (U.S.G.S.) in Albuquerque, New Mexico, submitted to the Commission a notice of negative determination that the Depco, Inc. Beal Federal Well No. 1 did not meet the requirements of a new well pursuant to section 2(3)(b) of the Natural Gas Policy Act of 1978 (NGPA) and therefore did not qualify as a new onshore well pursuant to section 102(c)(1)(B) of the NGPA. No determination was made as to whether the 2.5 mile or 1,000 feet deeper requirements of section 102(c)(1)(B)(i) and (ii) were met. On August 6, 1979, the Commission received the protest of Depco, Inc. requesting reversal of the U.S.G.S. determination and approval of their application for determination as a new onshore well.

According to section 102(c)(1)(B) of the NGPA, a well must qualify as a "new well", and must meet certain other requirements, in order to qualify as a "new onshore well." Section 2(3) of the NGPA defines a "new well" as any well (A) the surface drilling of which began on or after February 19, 1977; or (B) the depth of which was increased, by means of drilling on or after February 19, 1977, to a completion location which is located at least 1,000 feet below the depth of the deepest completion location of such well attained before February 19, 1977. Section 2(7)(A) of the NGPA provides the general rule that the term "completion location" means any subsurface location from which natural gas is being or has been produced in commercial quantities.

The record shows that the subject well was originally spudded July 22, 1975, and drilled to a total depth of 3375 feet. The well was nonproductive. In April, 1977, Depco, Inc. re-entered the subject well and drilled another 6,000 feet deeper. In June, 1977, the subject well was completed as a gas well in a completion location between 9096 and 9182 feet. Therefore, because the spud date of the well was prior to February 19, 1977, the well must qualify under section 2(3)(b) of the NGPA if it is to qualify as a "new well."

The negative determination of the U.S.G.S. was based on its interpretation of section 2(3) of the NGPA as requiring evidence of a "completion location" from which natural gas was produced in commercial quantities at or above the original depth of 3375 feet from which the 1,000 foot requirement could be measured. Lacking evidence of any completion at such shallower depths, the U.S.G.S. concluded that the well could not be a "new well."

The Commission believes that the statutory definition of "new well" does not address the factual situation presented in this proceeding. However, pursuant to section 501(b), the Commission has issued an interm rule defining the term "new well" to make it clear that it includes any well the depth of which was increased by means of drilling on or after February 19, 1977 to a completion location which is located at least 1000 feet below the lowest point attained in a dry hole the drilling of which was terminated prior to February 19, 1977.[1]

The above-described interim rule constitutes information in the Commission's public records which was not part of the record before the jurisdictional agency and which is inconsistent with the determination on this well. Section 503(b)(2) of the NGPA provides that in such a situation the Commission may, following Preliminary and Final Findings on the determination, remand the matter to the jurisdictional agency for consideration of such public information. Accordingly, pursuant to § 275.202(a)(1)(ii) and (a)(2), the Commission makes a Preliminary Finding that this determination is not consistent with information which is contained in the public records of the Commission and which was not part of the record on which the U.S.G.S. made the determination on the above-named well.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-28890 Filed 9-17-79; 8:45 am]
BILLING CODE 6450-01-M

[1] The interim rule defining this term was issued September 7, 1979 in Docket No. RM70-78.

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1321-2]

Applicability Determination in Response To a Request for Interpretation of a Permit

AGENCY: Environmental Protection Agency.

ACTION: Applicability determination in response to a request from the Getty Oil Company for interpretation of a permit.

SUMMARY: The Getty Oil Company requested an interpretation of certain provisions of a new source permit governing 62 steam generators in the Kern River oil field in Kern County, California. EPA interprets the permit to forbid operation of the generators prior to installation of necessary emission controls, assuming that none of the other emission reduction options set out in the permit are selected.

DATES: The Applicability Determination is effective immediately.

FOR FURTHER INFORMATION CONTACT: David Rochlin, Attorney-Advisor, Division of Stationary Source Enforcement (EN-341), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202-755-2542.

SUPPLEMENTARY INFORMATION: The letter which is reproduced below is an Applicability Determination which construes a new source permit governing 62 steam generators operated by the Getty Oil Company. The Determination is being made in response to a request by Getty. The permit provision in question governs how Getty should respond to a violation of an ambient air quality standard. EPA interprets the permit to forbid operation prior to installation of necessary control technology unless other emission reduction methods specified in the permit are used which achieve continuous emission limitation.

The determination is a final action by the administrator which is locally applicable. Accordingly, the action is subject to judicial review only upon petition to the United States Court of Appeals for the Ninth Circuit. Any such petition must be filed within sixty days of the date of this notice in the Federal Register. Section 307(b)(1) of the Clean Air Act, 42 U.S.C. 7607(b)(1).

Dated: September 12, 1979.

Edward E. Reich,

Director, Division of Stationary Source Enforcement (EN-341).

U.S. Environmental Protection Agency

September 5, 1979.

Mr. John P. McCabe,

Group Vice President, Natural Resources, Getty Oil Company, 3810 Wilshire Boulevard, Los Angeles, California 90010.

Dear Mr. McCabe: This is in response to your August 10, 1979 Applicability Determination Request for interpretation of certain provisions of the June 24, 1976 "Approval to Construct/Modify" (the Approval) issued to the Getty Oil Company (Getty) by the Environmental Protection Agency's Region IX office in San Francisco. The Approval allowed Getty to construct 62 steam generators in the Kern River oil field, subject to several conditions. One of those conditions was that Getty install an ambient sulfur dioxide monitoring network. In the event that there was an exceedance of any National Ambient Air Quality Standard for sulfur dioxide (at any of the relevant monitoring stations), Getty would be required to notify EPA and the Kern County Air Pollution Control District within 24 hours and to shut down the 62 generators or take other measures specified in paragraph VII of the Approval.

Getty and EPA agree that an exceedance of the 24-hour sulfur dioxide standard occurred on December 26, 1978. The State of California reported to EPA that the annual sulfur dioxide standard was also exceeded during 1978.

Getty submits that it could, consistent with Paragraph VII (b)(3) of the Approval, install scrubbers to service the 62 generators, while operating the 62 generators without continuous emission reduction technology, pending the installation of scrubbers.

You did not, in your August 10 letter, mention the correspondence which was exchanged after the December 26, 1978 exceedance of the standard. (Copies of this correspondence are attached). On December 28, 1978, Mr. C. G. Bursell of your Bakersfield office wrote to Clyde Eller, Director of the Enforcement Division of our Region IX office. In that letter Mr. Bursell said,

"Our understanding of the conditions of the permit is that we will either have to use low sulfur fuel oil or some other control strategy such as scrubbing *to achieve a complete sulfur dioxide offset for any of the sixty-two (62) generators that we wish to re-fire as* spelled out in Section VII (b) of our permit." [Emphasis added].

Then, by letter of January 12, 1979, Mr. Eller responded to Mr. Bursell, confirming Getty's interpretation of the permit in even clearer terms. Mr. Eller said,

"If these plans [to reduce sulfur dioxide emissions] include the installations of scrubbers . . . . then *the generators presently shut down . . . must not be restarted until the scrubbers are installed and operating.* If the plan submitted is acceptable, we will modify the June 24, 1976 Approval to Construct so that the continued use of such offset is made a condition of the permit. "[Emphasis added.]

We believe that Getty and EPA have fairly interpreted the 1976 permit to require installation of the scrubbers before any refiring of the 62 generators. We do not see any room for reinterpretation. However, as you are aware, discussions are now in progress in Washington, D.C., on the subject of revision of the permit. Revision of the permit is an approach which allows for public participation, an important element of EPA's method of operation. We hope that permit revision will prove to be adequate from Getty's point of view as well as EPA's.

This letter constitutes final action by the Administrator of EPA as described in Section 307(b) of the Clean Air Act. Pursuant to that Section, this letter will be published shortly in the Federal Register.

Sincerely yours,

Richard D. Wilson,

Deputy Assistant Administrator for General Enforcement.

Attachments.

[FR Doc. 79-28926 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1322-6; OPP—180358]

California Department of Food and Agriculture; Issuance of Specific Exemption To Use Ethephon as a Plant Regulator

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use ethephon to hasten maturity of grapes grown for fresh market and raisin production on 74,000 acres of grapes in California. The specific exemption expires on October 31, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, ethephon is needed to accelerate the maturity of table grapes (Emperor, Tokay, and Thompson seedless) and raisin grapes (Thompson seedless) in order to avoid damage from rainfall and frost. In addition to early maturation, use of Ethrel, which contains the active ingredient (a.i.) ethephon, will insure a more uniform development of color in table grapes which is essential for fresh

market acceptance, the applicant claims. Grapes with a less than desirable color must often be sold to wineries at a reduced price. Growers often leave fruit on the vines longer so that acceptable coloring is developed. However, this increases the chances of losses due to rainfall (which favors fungal infections) or frost.

California ranks number one in production of grapes in the United States with 576,000 acres producing nearly 4 million tons of grapes annually, valued at $543 million. In 1978, the Applicant estimated that use of ethephon could have averted from 40–50 percent of the losses incurred because of rainfall and/or frost. It is estimated that 150,00 tons of raisins with a market value of $240 million were lost in 1978.

The Applicant proposed to make one application of ethephon at a dosage rate of 0.25–0.5 pound a.i. per acre using ground equipment, with a pre-harvest interval of 30 days. The standard California requirements for obtaining a permit from a County Agricultural Commissioner, before applying a pesticide under a specific exemption, will apply here also. Application will be made in accordance with California closed mixing system regulations.

EPA has determined that residue levels of ethephon are not likely to exceed 2 parts per million (ppm) in or on grapes, 8 ppm in grape juice, 12 ppm in raisins, and 65 ppm in raisin waste from the proposed use. These levels have been judged adequate to protect the public health. There are established tolerances for ethephon ranging from 0.1 ppm on coffee to 30 ppm on blackberries and peppers. EPA has also determined that this use of ethephon is not likely to have any adverse environmental effects.

After reviewing the application and other available information, EPA has determined that (a) use of a growth regulator on grapes could aid in preventing possible significant losses contingent upon adverse weather conditions; (b) there is no effective plant regulator presently registered and available for this use in California; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the grapes cannot be harvested before rain or frost set in; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the growth regulator noted above until October 31, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Ethrel (EPA Reg. No. 264–267), manufactured by Amchem Products, Inc., which contains the a.i. ethephon [2-chloroethyl) phosphonic acid] may be applied at a dosage rate of 0.25 pound to 0.50 pound a.i. per acre. A given acreage may be treated only once. Applications are to be made with ground equipment using from 200 to 300 gallons of water per acre. Up to 37,000 pounds a.i. are authorized.

2. Up to 50,000 acres of Thompson seedless grapes grown for raisin production may be treated with ethephon. Up to 10,000 acres of Tokay and 14,000 acres of Emperor grapes may also be treated with Ethephon.

3. All applicable label directions, precautions, and restrictions must be followed. Before ethephon is used under this exemption, a permit must be obtained from the County Agricultural Commissioner. A written recommendation, which substantiates the need for treatment, shall be obtained from a licensed agricultural pest control advisor or a University of California farm advisor before a permit is requested;

4. Pesticide dealers must not sell ethephon for use on grapes unless such a permit is presented. Dealers shall also maintain records of sale of ethephon for use under this specific exemption;

5. All applications of ethephon under this specific exemption shall be made by or under the supervision of an applicator State-certified for this particular category of pest control and shall be made in accordance with California closed mixing system regulations;

6. Applicators shall submit a report to the County Agricultural Commission within seven days of treatment;

7. The County Agricultural Commission under the Applicant's auspices, shall monitor use of ethephon under this exemption;

8. The following commodities with residues of ethephon not exceeding the indicated levels may enter interstate commerce: fresh grapes—2.0 ppm; grape juice—8.0 ppm; grape pomace—10.0 ppm; raisins—12.0 ppm; and raisin waste—65.0 ppm. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

9. A 30-day pre-harvest interval must be observed;

10. The EPA shall be immediately informed of any adverse effects resulting from the use of ethephon under this specific exemption; and

11. The Applicant is responsible for ensuring that all of the provisions and restrictions of this specific exemption are met and must submit a final report which summarizes the results of this program by the end of March, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1978, and 1979 (92 Stat. 819; 7 U.S.C. 136).)

Dated: September 12, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-28939 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1322-5; OPP-180360]

Connecticut Department of Environmental Protection; Issuance of Specific Exemption To Use Permethrin To Control Cabbage Looper and Cabbageworm on Cabbage and Cauliflower

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted permission to the Connecticut Department of Environmental Protection (hereafter referred to as the "Applicant") to use permethrin to control the cabbage looper and cabbageworm on 2,000 acres of cabbage and cauliflower in Connecticut. The specific exemption expires on November 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, the cabbage looper is a serious economic pest of commercially produced cabbage. The cabbage looper is the most difficult cabbage pest to control, and occurs annually in destructive numbers. Effective control is needed throughout the season since poor control during any portion results in more adults to attack before the crop has matured. Connecticut grows cabbage for the fresh market only; therefore, the Applicant states, heads with damage must be destroyed. In addition, Connecticut farmers double-crop their cabbage due to the long growing season for this crop. The Applicant states that heavy infestations are already destroying the first crop. The second crop will be

planted with heavy infestation of the pest already present. The Applicant estimates a loss of 40 percent of the cabbage and cauliflower crops, if an effective control program is not available this season.

The Applicant claims that present control efforts have failed primarily because of exceptionally high infestation pressures as a result of this year's unusual meteorological conditions. The Applicant states that with the possible exception of Monitor, none of the currently registered compounds have been effective and they are not providing adequate control. While Monitor generally controls the pests, the Applicant reports, it may not be used within 35 days of harvest. This pre-harvest interval is a critical period for cabbage and cauliflower due to the unusually high infestation of the cabbage looper.

The Applicant proposed to apply permethrin at a rate of 0.05 to 0.1 pound per acre using the products Ambush, manufactured by ICI Americas, Inc., and Pounce 3.2 EC, manufactured by FMC Corporation. EPA has imposed a 60-day crop rotation restriction.

EPA has determined that residues of permethrin from the proposed use should not exceed 3.0 parts per million (ppm) in cabbage or 0.5 ppm in cauliflower. These levels have been judged by the EPA to be adequate to protect the public health. EPA has also determined that the proposed use should not have an unreasonable adverse effect on the environment.

After reviewing the application and other available information, EPA has determined that (a) pest outbreaks of the cabbage looper and cabbageworm have occurred; (b) there is no effective pesticide presently registered and available for use to control these pests in Connecticut; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pests are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until November 30, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The products, Ambush (EPA Reg. No. 10182–3) and Pounce 3.2 EC (EPA Reg. No. 279–3024), may be used;

2. Total acreage of cabbage and cauliflower may not exceed 2,000 acres;

3. A maximum of 1,200 pounds of active ingredient may be applied at a maximum rate of 0.1 pound active ingredient per acre;

4. A maximum of six applications is authorized;

5. A One-day pre-harvest interval is imposed;

6. All applications will be made by State-certified commercial applicators or by qualified growers;

7. A 60-day crop rotation restriction is imposed for all crops that do not have permanent tolerances for permethrin;

8. Permethrin will be applied by ground equipment in a spray volume of 20 to 100 gallons per acre;

8. Permethrin may be applied to cabbage or cauliflower fields only when a State entomologist has determined that:

a. A major infestation of cabbage loopers or cabbageworms exists,

b. Registered pesticides are not controlling the cabbage looper or cabbageworm, and

c. Significant economic losses to cabbage or cauliflower growers will occur;

10. Permethrin should not be applied any closer to fish-bearing waters than indicated in the chart below:

Application method	Aerial			Ground		
Application height	10 feet			2 feet		
Application rate (lbs. A.I.)	.05	0.1	0.2	0.05	0.1	0.2
Fresh water (distance in feet)	585	990	1,600	117	198	320
Salt water (distance in feet)	1,847	2,779	3,950	369	556	790

The Applicant is warned that applications closer than those allowed in the above chart may result in fish and/or aquatic invertebrate kills.

11. Participants are to be notified of their obligation to report any and all adverse effects on non-target organisms arising from the use of this product. The EPA shall be immediately informed of any adverse effects resulting from the proposed use;

12. Precautions must be taken to avoid or minimize spray drift to non-target areas;

13. This product is highly toxic to bees exposed to direct treatment or to residues on crops or weeds. It may not be applied or allowed to drift to weeds in bloom on which a significant number of bees are actively foraging. Protective information may be obtained from the State Cooperative Agriculture Extension Service;

14. Permethrin is extremely toxic to fish and aquatic invertebrates. It must be kept out of lakes, streams, pond, tidal marshes and estuaries. Care must be taken to prevent contamination of water by cleaning of equipment of disposing of waste;

15. Cabbage with residues of permethrin not exceeding 3.0 ppm and cauliflower with residues of permethrin not exceeding 0.5 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

16. Cabbage trimmings from treated fields must not be fed to livestock;

17. All applicable directions, restrictions, and precautions on the product labels must be adhered to; and

18. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by February 28, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: September 12, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79–28940 Filed 9–17–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1320–01]

Factors To Be Addressed in Petitions To Establish Prohibition of Vessel Sewage Discharges in Drinking Water Intake Zones

The Clean Water Act of 1977 (Pub. L 95–217), amended section 312 (marine Sanitation Devices) of the Federal Water Pollution Control Act by requiring that the Administrator, upon application by a State, establish by regulation drinking water intake zones within which the discharge of vessel sewage would be prohibited. It is recognized that the wide variability in stream flow associated with drinking wate intake zones, and the contribution of vessel sewage discharges to any

potential contamination of such drinking water supplies requires an individual assessment of any petition for a no-discharge prohibition of vessel sewage discharges based on section 312(f)(4)(B). This notice identifies (1) those factors that the Agency intends to consider in assessing any waters specified in a State's petition for the establishment of drinking water intake zones, and (2) the information required from a State in order to make that determination.

It should be borne in mind that the Congress cautioned the Administrator in implementing section 312(f)(4)(B) to use discretion in establishing drinking water intake zones. This amended section of the Act was intended by the Congress to protect drinking water supplies, particularly in port areas, and not to result in far-reaching discharge prohibitions unnecessary to protect drinking water supplies. In recognition of the requirement for individual assessment of any submitted petition from a State, the information factors to be addressd by a State shall include, but are not necessarily limited to, the following factors:

(1) The specific drinking water intake zone for which the discharge of vesssel sewage is prohibited, including the diameter or dimensions of such zone in meters or kilometers, the specific location of the drinking water intake, as well as a detailed map of the specified waters and the surrounding area;

(2) The average annual flow for the specified waters;

(3) The change in the raw water quality expected in the specified drinking water intake zone under worst case conditions: specifically, the 7-day, 10-year low flow period;

(4) The existing water quality for the parameters specified in the EPA Drinking Water Standards for the specified waters;

(5) The name, location, and maximum flow in gallons per day of the drinking water treatment facility(s) for which the intake zone provides water;

(6) The recreational and commercial vessel use intensity expected in the specified drinking water intake zone, the geographic location of any recreational and commercial marinas in the specified zone, and the specific contribution to the burden of the water treatment facility from each of the factors specified above;

(7) The name, location, and maximum flow in gallons per day of any sewage treatment works in the specified drinking water intake zone which may be expected to significantly affect the quality of the water in the specified drinking water intake zone; and

(8) The effect on the water quality in the proposed drinking water intake zone of any tidal influence, if applicable.

If data for any of the above factors are unknown, the petition should indicate this fact, and the specific reason for its absence. All significant information that is known to a State regarding the above information factors, or that may relate to an assessment of the merits of the petition, shall be submitted as a part of the petition.

Any petition submitted by a State shall be signed by either the Governor of that State or his statutorily designated representative.

This notice is issued under the authority of section 312(f)(4)(B) of the Clean Water Act of 1977 (33 U.S.C. 1251 *et seq.*). Public comment is invited on this notice and should be sent to Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH585), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Dated: August 15, 1979.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management.

[FR Doc. 79-28080 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1322-3; OPP-180356]

Florida Department of Agriculture and Consumer Services; Specific Exemption To Use Permethrin To Control Leafminers on Lettuce

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has issued a specific exemption to the Florida Department of Agriculture and Consumer Services (hereafter referred to as the "Applicant") to use permethrin to control leafminers on 11,800 acres of lettuce in Lake, Orange, Palm Beach, and Seminole Counties, Florida. The specific exemption ends on June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Leafminers have periodically plagued Florida vegetable growers. The primary damage by the vegetable leafminer is caused by the tunneling larvae which destroy the leaf tissue. The mines left by these pests are also excellent points of entry for bacterial and fungal pathogens which cause the heads of lettuce to break down with decay in transit or in the market. The adult female punctures the leaf and deposits eggs. The mature larva of the leafminer emerges from the leaf and moults into an orange seed-like puparium or cocoon that becomes lodged between the leaves of the lettuce and, according to the Applicant, this contaminant can not be cleansed from the lettuce. The nature of the leafminer limits its control to a contact adulticide since the other stages of its life cycle are either concealed within the host tissue or sheltered among the lettuce leaves. Of the various pesticides tried and registered for control of this pest, the Applicant claims that only acephate shows positive efficacy, but its use is prohibited after the beginning of head formation which precludes protection during the period it is needed most.

Despite increased lettuce acreage since 1975, the amount of lettuce harvested has decreased in Florida. The Applicant attributes this decrease to leafminer damage and estimates a loss of $4.5 million in the lettuce crop value this season due to leafminer infestation without an effective control program.

The Applicant proposed to use permethrin at a rate of 0.1 to 0.2 pound active ingredient (a.i.) in a minimum of 3 gallons of water per acre. State-certified applicators or qualified growers will apply permethrin using air equipment. There will be a maximum of 10 applications made at 3- to 6-day intervals.

Residue levels of permethrin on lettuce are not expected to exceed 10 parts per million (ppm) from this use. This level has been deemed adequate to protect the public health. Because animal feeding studies have not been reviewed by EPA, the Agency has prohibited the feeding of wrapper leaves to livestock. EPA has imposed other limitations to ensure that permethrin does not adversely affect the environment.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of leafminers on lettuce has occurred or is about to occur; (b) there is no effective pesticide presently registered and available for use to control this pest in Florida; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant

economic problems may result if the leafminer is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 30, 1980, to the extent and in the manner set forth in the application, subject to the following conditions:

1. The products Ambush (EPA Reg. No. 10182–3), manufactured by ICI Americas Inc., and Pounce 3.2 EC (EPA Reg. No. 279–3024), manufactured by FMC Corp., may be used;

2. Total acreage may not exceed 11,800 acres;

3. A maximum of 23,600 pounds a.i. may be applied at a maximum rate of 0.2 pound a.i. per acre;

4. A maximum of 10 applications is authorized;

5. Applications may be made at 3- to 6-day intervals. There is no pre-harvest interval;

6. All applications will be made by State-certified commercial applicators or by qualified growers;

7. A 60-day crop rotation restriction is imposed for for all crops that do not have permanent tolerances for permethrin;

8. Permethrin will be applied in a minimum of 3 gallons of water per acre;

9. Permethrin should not be applied any closer to fish-bearing waters than indicated in the chart below:

Application method	Aerial			Ground		
Application height	10 feet			2 feet		
Application rate (lbs. A.I.)	.05	0.1	0.2	0.05	0.1	0.2
Fresh water (distance in feet)	585	990	1600	117	198	320
Salt water (distance in feet)	1847	2779	3950	369	556	790

The Applicant is warned that applications closer than those allowed in the above chart may result in fish and/or aquatic invertebrate kills;

10. Participants are to be notified of their obligation to report any and all adverse effects on non-target organisms arising from the use of this product. EPA shall be immediately informed of any adverse effects resulting from this use;

11. Precautions must be taken to avoid or minimize spray drift to non-target areas;

12. This product is highly toxic to bees exposed to direct treatment or to residues on crops or weeds. It must not be applied or allowed to drift to weeds in bloom on which a significant number of bees are actively foraging. Protective information may be obtained from the State Coorperative Agricultural Extension Service;

13. Permethrin is extremely toxic to fish and aquatic invertebrates. Lakes, streams, ponds, tidal marshes, and estuaries must not be contaminated by the cleaning of equipment or disposing of waste;

14. Lettuce with residue levels of permethrin not exceeding 10 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

15. Lettuce trimmings from treated fields must not be fed to livestock;

16. All applicable directions, restrictions, and precautions on the product label must be adhered to;

17. Two endangered species, the Florida Everglade Kite and the Southern Bald Eagle, are endemic to regions in the treatment area. Application of the pesticide according to the above instructions is expected to minimize the risk to these animals. Permethrin should not be applied in areas where spray drift could possibly impact ecosystems containing endangered and threatened species. Liaison should be established between the Applicant and the Florida Fresh Water Fish and Game Commission in order to protect fish and wildlife; and

18. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by September 30, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: September 12, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-28936 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1322-7; OPP-180361]

Idaho and Oregon Departments of Agriculture; Issuance of Specific Exemptions To Use TEPP To Control Spider Mites on Hops

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemptions.

SUMMARY: EPA has granted specific exemptions to the Idaho and Oregon Departments of Agriculture (hereafter referred to as "Idaho," "Oregon," or the "Applicants") to use tetraethylpyrophosphate (TEPP) to control the two-spotted spider mite on 1,000 acres of hops in Canyon County, Idaho and 5,500 acres of hops in Clackamas, Josephine, and Marion Counties in Oregon. The specific exemptions expire on September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicants, an infestation of the two-spotted spider mite (*Tetranychus urticae* Koch) can occur any time weather conditions are favorable. The frequency of a mite outbreak is not predictable. Idaho requested and received a specific exemption earlier this year for the use of Carzol to control the spider mite on hops, but due to a shortage of that miticide an alternative means of control is needed. Losses from uncontrolled infestations of spider mites could reach $1 million in Idaho and $750,000 in Oregon, the Applicants reported.

The Applicants proposed to treat hops at a rate of 2 pounds active ingredient per acre. One aerial application will be made.

According to the Applicants, registered pesticides cannot be used because: they are not effective or not available; mites have developed resistance to them; pre-harvest intervals are too long for them to be practical; and while hops require aerial application, the registered pesticides cannot be applied aerially because of either labeling restrictions or ineffectiveness.

EPA expects a residue level of tetraethylpyrophosphate in dried hops of 0.01 part per million (ppm) from this

use. However, the analytical technique for hops is not adequate to support this low level. A residue level not to exceed 0.1 ppm could be analyzed and would be adequate to protect the public health. A residue tolerance level of 0.01 ppm has been accepted for apples, cabbages, cauliflowers, oranges, peaches, and potatoes. These commodities are generally more prevalent in the human diet than hops. EPA does not expect this use to have an adverse effect on the environment.

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of two-spotted spider mites have occurred or are likely to occur; (b) there is no effective pesticide presently registered and available for use to control the two-spotted spider mite in Idaho and Oregon; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the two-spotted spider mites are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until September 30, 1979, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. One aerial application of TEPP may be made, at the rate of two pounds active ingredient per acre;

2. A maximum of 2,000 pounds of active ingredient is authorized under Idaho's exemption, to be used to treat up to 1,000 acres. A maximum of 11,000 pounds is authorized under Oregon's exemption, to be used to treat up to 5,500 acres;

3. Applications are limited to the counties named above and are to be made only by State-certified commercial applicators in Idaho and by State-licensed commercial applicators in Oregon;

4. A three-day pre-harvest interval will be observed;

5. The Applicants are responsible for monitoring aerial applications of TEPP;

6. Liaison shall be established among the Idaho Departments of Agriculture, Fisheries, and Game in Idaho, and the Oregon Departments of Agriculture, and Fisheries, and Game in Oregon to minimize any adverse effects on fish and wildlife resources;

7. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with these exemptions;

8. All applicable directions, restrictions, and precautions on the EPA-registered label will be observed;

9. All precautions will be taken to avoid or minimize spray drift to non-target areas;

10. Hops with residues of tetraethylpyrophosphate not exceeding 0.1 ppm may be offered in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action; and

11. Each of the Applicants must submit to EPA a full report summarizing the results of this program in that State by March, 1980.

(Section 18 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: September 12, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-28938 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1321-8]

Martin Marietta Aggregates; Clark County, Ind.; Final Determination

In the matter of the 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 Martin Marietta Aggregates, Clark County, Indiana.

On November 19, 1978, Martin Marietta Aggregates submitted an application to the United States Environmental Protection Agency (U.S. EPA), Region V office, for an approval to construct a limestone plant. Additional information was submitted by the Company on December 6, 1978. The application was submitted pursuant to the regulations for PSD.

On January 23, 1979, Martin Marietta Aggregates was notified that its application was complete and preliminary approval was granted.

On March 19, 1979, U.S. EPA published notice of its decision to grant a preliminary approval to Martin Marietta Aggregates. No comments or requests for a public hearing were received.

After review and analysis of all materials submitted by Martin Marietta Aggregates, the Company was notified on May 31, 1979, that U.S. EPA had determined that the proposed new construction in Clark County, Indiana, 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 Martin Marietta Aggregates of the responsiblity 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 South Dearborn Street, Chicago, Illinois 60604. (312) 353-2090.

Dated: August 14, 1979.

John McGuire,

Regional Administrator Region V.

Authority

In the matter of Martin Marietta Aggregates; Louisville, Ky. Proceeding Pursuant to the Clean Air Act, as amended.

Approval to Construct EPA-5-79-A-14.

The approval to construct is issued pursuant 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. Martin Marietta Aggregates is planning to construct a 600 tons per hour crushed limestone plant (Lane Quarry) with primary, secondary, and tertiary crushers, and a screening and conveying operation in Clark County, near Charlestown, Indiana.

2. Clark County is a Class II area as determined pursuant to the Act and has been designated a nonattainment area pursuant to Section 107 of the Act for total suspended particulate matter (TSP).

3. The proposed limestone quarry has an allowable emission rate of 51 tons per year. The regulations at 41 FR 55524, December 21, 1976 (the Emission Offset Policy) indicate that sources having an allowable emission rate of under 100 tons per year are not subject to the Emission Offset Policy. The proposed quarry is, therefore, subject to the requirements of 40 CFR 52.21 and the applicable sections of the Act. Consequently, a review under PSD for TSP was performed.

4. Martin Marietta submitted a PSD application to U.S. EPA on November 28, 1978. On December 6, 1978, Martin Marietta submitted more information for review and on January 23, 1979, the application was

determined to be complete and preliminary approval was issued.

5. On March 19, 1979, public notice appeared in the *Charlestown Courier*. The *Jeffersonville Evening News* published the public notice on April 2, 1979. There were no public comments and no requests for a public hearing.

6. Both the proposed limestone quarry baghouse systems will meet an emission limit of 0.015 gr/DSCF and 0% opacity.

7. After review of all the materials submitted by Martin Marietta, U.S. EPA has determined that emissions from the operation of the limestone plant will be controlled by the application of the best available control technology.

8. The requirements of 40 CFR 52.21 have been met by offsetting the allowable emissions from the Charlestown, Indiana, limestone plant with 119 tons per year from the Company's plant at Utica, Indiana.

Conditions

9. Emissions from the baghouse systems shall not be in excess of 0.015 gr/DSCF.

10. The baghouse system shall not exhibit an opacity of greater than 0%.

No visible emissions shall be discharged from any facility, building or enclosure containing any of the source's operations for more than 6 minutes of any 60 minute period.

12. Storage piles will be sprayed with water or surfactant.

13. All conveyors will be hooded and have adjustable chutes.

14. Haul roads will be oiled or sprayed with water or surfactant.

15. The Utica Quarry in Clark County, Indiana, which is the source of offset emissions, will cease operations before the startup of mining operations at the Lane Quarry.

Conditions 9 through 15 represent the application of the best available control technology as required by Section 165 of the Act.

16. Martin Marietta must construct and operate the limestone quarry, crushing, screening and conveying operations in accordance with the descriptions presented in their application for approval to construct. Any change in the plan might alter U.S. EPA's conclusions and therefore, any changes must receive the prior written authorization of U.S. EPA.

Approval

17. Approval to construct the limestone quarry, crushers, and the screening and conveying operations is hereby granted to Martin Marietta Aggregates subject to the conditions expressed herein and consistent with the materials and data included in the application filed by the Company. 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.

18. This approval to construct does not relieve Martin Marietta Aggregates 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.

19. A copy of this approval has been forwarded to the Charlestown Public Library, 51 Clark Road, Charlestown, Indiana 47111 for public inspection.

Dated: May 31, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 79-28923 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1322-8; OPP-180362]

New York, Ohio, and Oregon; Issuance of Specific Exemptions To Use Mesurol To Control Birds Depredating Grapes

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemptions.

SUMMARY: EPA has granted specific exemptions to the New York Department of Environmental Protection, and the Ohio and Oregon Departments of Agriculture (hereafter referred to as "New York," "Ohio," "Oregon," or the "Applicants") to use Mesurol to control depredating birds on 5,600 acres of grapes in New York, 2,000 acres in Ohio, and 600 acres in Oregon. The specific exemptions expire on November 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquaters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicants, birds can seriously reduce the crop of marketable grapes. The amount of injury varies from year to year, reflecting bird populations and availability of alternative food sources. Grapes are generally harvested after other berry crops and thus can become a major food source for birds. Grapes are subject to feeding at all times after the fruit has begun to ripen. Bird species observed in grape fields include robins, finches, Starlings, sparrows, mourning doves, orioles, cedar waxwings, and blackbirds. There are currently no pesticides registered for bird control in grapes. There are two types of alternative control available: (a) scare devices, and (b) exclusion devices. According to the Applicants, scare devices do not prevent, but only reduce, feeding injury; some birds quickly adapt to these devices. The Applicants claim that exclusion devices are prohibitively expensive. Mesurol is currently registered as a bird repellent on cherries.

The Applicants propose to apply 2.67 pounds of Mesurol, which contains the active ingredient (a.i.) 3,5-dimethyl-4-(methylthio) phenyl methycarbamate, per acre with up to three applications. The Applicants anticipate that grape growers in Ohio may lose up to $250,000, those in Oregon up to $270,000, and those in New York from 10 to 50 percent of their crop, if Mesurol is not available.

EPA has determined that residues of the a.i. and its cholinesterase-inhibiting metabolites would not exceed 10 parts per million (ppm) in or on grapes, 20 ppm in or on raisins, and 50 ppm in or on grape pomace and raisin waste, from the proposed use. These residue levels have been judged adequate by EPA to protect the public health. EPA has also determined that the proposed use should not present an undue hazard to the environment.

After reviewing the applications and other available information, EPA has determined that (a) bird depredation of grapes has occurred or is likely to occur; (b) there is no pesticide presently registered and available for use to control birds depredating grapes in New York, Ohio, and Oregon; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the birds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until November 30, 1979, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The product Mesurol 75% WP insecticide-bird repellent, EPA Reg. No. 3125-288, may be used;

2. New York and Ohio may apply Mesurol by ground equipment at a rate of 2.67 pounds per acre; Oregon may apply Mesurol at the same rate using air or ground equipment. No more than three applications may be made per season;

3. Application of Mesurol is restricted to those grape fields where damage from bird depredation will cause significant economic losses, as determined by Cooperative Extension or authorized State personnel;

4. Application is to begin at the first sign of major bird damage. A one-day pre-harvest interval is imposed;

5. In New York, a total of 33,599 pounds a.i. are authorized to treat up to 5,600 acres. In Ohio, a total of 11,553 pounds a.i. are authorized to treat up to 2,000 acres. In Oregon a total of 3,600 pounds a.i. are authorized to treat up to 600 acres;

6. Mesurol is toxic to fish and other aquatic organisms. Precautions must be taken to avoid or minimize spray drift to aquatic areas;

7. Mesurol is highly toxic to bees exposed to direct treatment or residues on crops or blooming weeds. It may not be applied or allowed to drift to corps or weeds when bees are actively visiting the area;

8. The Applicants should insure that observations are carried out by State biologists concerning possible adverse effects to non-target species;

9. Residues of the a.i. and its cholinesterase-inhibiting metabolites not exceeding the following levels may enter into interstate commerce: grapes—10 ppm; raisins—20 ppm; raisin waste—50 ppm; grape pomace—50 ppm. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been notified of this action; and

10. Each of the Applicants is responsible for assuring that all of the provisions of that State's specific exemption are met and must submit a final report summarizing the results of this program by February 28, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: September 12, 1979.

Edwin L. Johnson

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-28937 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1322-4; OPP-180354]

North Carolina Department of Agriculture; Issuance of Specific Exemption To Use Methomyl To Control Fall Armyworm on Forage Grasses

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the North Carolina Department of Agriculture (hereafter referred to as the "Applicant") to use methomyl to control the fall armyworm on 130,000 to 260,000 acres of tall fescue, orchard grass, Italian ryegrass, and small grains in North Carolina. The specific exemption expires on November 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Tall fescue *(Festuca arundinacea)*, orchard grass *(Dactylis glomerata)*, Italian ryegrass *(Lolium multiflorum)* and small grains (several species) comprise a major portion of cool season forage grown in North Carolina. Total acreage for each of these grasses used for grazing is about 720,000 for tall fescue, 360,000 for orchard grass, 80,000 for Italian ryegrass, and 150,000 for small grains. Many growers depend on these crops as the primary source of cattle feed. According to the Applicant, North Carolina growers cannot afford additional losses due to armyworm damage. Damages equal to or greater than those encountered in previous years are expected if an effective pesticide is not used. Fields where infestations are heavy may be stripped, eliminating grazing in the late fall months in a year when such grazing will be essential for maintenance of productive herds. According to the Applicant, growers may be forced to sell off their herds if forage or hay is not available at a price they can afford.

The fall armyworm overwinters in the Gulf Coast region and migrates northward each summer. The armyworms fluctuate greatly in abundance north of their overwinter sites snd undergo cycles which reach destructive peaks. According to the Applicant, there is usually only one generation in each locality in North Carolina each season; however, several overlapping generations are known to occur. Like the true armyworm, the caterpillars often move from field to field in large numbers devouring the foliage and tender stems of field and vegetable crops. The Applicant indicates that the fall armyworm, if uncontrolled, can cause damage which could create an extreme financial hardship for farmers throughout the State.

Carbaryl and trichlorfon are registered for control of the fall armyworm in North Carolina. However, under field conditions in North Carolina in 1975, 1976, and 1977, carbaryl, the most widely used insecticide, generally did not give effective control, the Applicant reported. Methomyl was reported effective for fall armyworm control when used in several States in 1977 as authorized by specific exemptions granted by EPA.

The specific exemption allows treatment of forage grasses with applications of methomyl at a maximum dosage of one-half pound active ingredient per acre per application on 130,000 to 260,000 acres throughout North Carolina. A maximum of three applications may be made; application will be by ground or aerial equipment.

Tolerances have been established for residues of methomyl on Bermudagrass and Bermudagrass hay. EPA has determined that residues of methomyl in or on green grass, and cured hay and ground or pelletized meal, resulting from the proposed use, should not exceed 5 and 10 parts per million (ppm), respectively. These residue levels have been judged adequate to protect the public health. The proposed use is not expected to pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) a fall armyworm outbreak has occurred on forage grasses; (b) there is no pesticide presently registered and available for use that gives effective control of the fall armyworm in North Carolina; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the fall armyworm is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until November 30, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Insecticidal products containing the active ingredient methomyl (S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate) may be used at a maximum dosage rate of one-half pound of active ingredient per acre.

2. A maximum of three applications may be made;

3. A maximum of 65,000 pounds of active methomyl may be applied;

4. Applications may be made by either State-licensed commercial applicators or State-certified private applicators using air or ground equipment;

5. There must be a waiting period of seven days before grazing, feeding, or cutting for hay or for dehydration and processing into meal and pellets;

6. Green grass with residue levels of methomyl not exceeding 5.0 ppm, and cured hay and ground or pelletized meal with residues of methomyl not exceeding 10.0 ppm may enter interstate commerce. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action;

7. Methomyl is toxic to fish and wildlife. All precautions must be taken to avoid spray drift to nontarget areas;

8. All applicable directions, restrictions, and precautions on the product label must be followed;

9. The Applicant is responsible for insuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by May 1, 1980; and

10. The EPA shall be immediately informed of any adverse effects resulting from the use of methomyl in connection with this exemption.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: September 12, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-28941 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1322-2; OPP-180357]

Oregon and Washington State Departments of Agriculture; Issuance of Specific Exemptions To Use Benomyl To Control Cercosporella Foot Rot of Wheat

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemptions.

SUMMARY: EPA has granted specific exemptions to the Oregon and Washington State Departments of Agriculture (hereafter referred to as the "Applicant") to use benomyl to control *Cercosporella* foot rot on 125,000 acres of wheat in Oregon and 500,000 acres of wheat in Washington. The specific exemptions expire on June 30, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460. Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicants, *Cercosporella* foot rot, caused by the fungal pathogen *Cercosporella herpotrichoides*, is a serious disease of cereal grains and is most damaging to early fall-seeded wheat crops. The severity of the infection is dependent upon climatic conditions, such as temperature and humidity. Because of heavy rains this year, conditions are conducive to the development of *Cercosporella* foot rot inoculum.

There are no pesticides registered for control of this disease and wheat strains resistant to this pathogen are not available. Specific exemptions for the use of benomyl to control this wheat disease have been issued annually since 1976 to Idaho, Oregon, and Washington. Estimated economic losses are put at $5 million in Oregon, and $18,150,000 in Washington if an effective pesticide is not used.

The Applicants proposed to make a single application of Benlate 50W, containing the active ingredient benomyl, at a dosage rate of 1.0 pound of product (0.5 pound active ingredient (a.i.)) per acre either with aerial equipment (5–10 gallons of water) or with ground equipment (20–30 gallons of water). Applications will be made in the eastern Oregon counties of Baker, Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco, and in the Willamette Valley Counties of Benton, Clackamas, Lane, Linn, Marion, Polk, Yamhill, and Washington; and in all the Washington State counties east of the crest of the Cascade Mountains.

EPA has determined that residues of benomyl are not likely to exceed 0.2 part per million (ppm) in or on wheat grain, 0.05 ppm in milled wheat fraction and 15 ppm in or on wheat straw from the proposed use. These levels have been judged adequate to protect the public health. Secondary residues transferring to meat, milk, poultry, and eggs would be covered by existing tolerances. Appropriate precautions have been imposed to protect employees working with benomyl. Based on past experiences, when no adverse effects were reported under similar specific exemption, EPA does not anticipate any adverse effects to the environment from this specific exemption.

It should be noted that a rebuttable presumption against registration of pesticide products containing benomyl was published in the **Federal Register** on December 6, 1977 (42 FR 61788); however, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of *Cercosporella* foot rot have occurred or are about to occur; (b) there is no pesticide presently registered and available for use to control *Cercosporella* foot rot in Oregon and Washington; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the foot rot is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticides noted above until June 30, 1980, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The DuPont product Benlate 50W, EPA Reg. No. 352-354, is authorized at a dosage rate of 1.0 pound of product (0.5 lb. a.i.) per acre in either 5 to 10 gallons of water (if applied aerially) or in 20 to 30 gallons of water (if applied by ground equipment). Only one application per acre is authorized;

2. The pesticide may be used on 125,000 acres of wheat in the Oregon counties and 500,000 acres of wheat in the Washington counties named above;

3. Applications may be made by either growers or State-licensed commercial applicators;

4. The presence of *Cercosporella* foot rot must be verified by qualified State extension agents in a given area before any treatment with benomyl is made;

5. Wheat grain with residues of benomyl not exceeding 0.2 part per million (ppm) and wheat straw with residues of benomyl not exceeding 15 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

6. All applicable label use directions, precautions, and restrictions must be adhered to;

7. The EPA shall be immediately informed of any adverse effects resulting from the use of benomyl in connection with these exemptions;

8. All applicators involved in the preparation of spray suspension must wear protective gloves and masks;

9. All clothing worn during the preparation of spray suspension must be removed and cleaned after each day of use;

10. All employees must wash immediately upon dermal contact with benomyl or the spray suspension; and

11. The Applicants are each responsible for ensuring that all of the provisions of that State's specific

exemption are met and each must submit a full report on the results of the State's specific exemption to EPA by January 31, 1981.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: September 12, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-28935 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1321-7]

Science Advisory Board; Economic Analysis Subcommittee; Open Meeting

As required by Pub. L. 92-463, notice is hereby given that a meeting of the Economic Analysis Subcommittee at the Science Advisory Board will be held beginning at 9:00 a.m., October 5, 1979, at the Region I offices, John F. Kennedy Federal Building, Boston, Massachusetts. The Subcommittee is meeting to work on a report to the Administrator and Assistant Administrators on "The Potential Role of Economic Analysis in Environmental Policy" and to hear from Region I personnel on the needs of the Regions in terms of economic analysis.

The agenda will include briefings from the Region I office and a working session to review a draft of the report.

The meeting is open to the public. Any member wishing to attend, participate, or obtain information should contact Dr. Douglas B. Seba, Executive Secretary, Economic Analysis Subcommittee, (202) 472-9444 by September 29, 1979.

Richard M. Dowd,

Staff Director, Science Advisory Board.

September 12, 1979.

[FR Doc. 79-28924 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1321-6]

Water Quality Standards; Navigable Waters of the State of Iowa

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of State Water Quality Standards Approval.

SUMMARY: The Environmental Protection Agency has approved revisions to the water quality standards for the State of Iowa. These revisions become part of the State's water quality standards contained in the document, "Water Quality Standards, Chapter 16, Iowa Administrative Code."

FOR FURTHER INFORMATION CONTACT: Dale Parke, Water Division, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

SUPPLEMENTAL INFORMATION: On February 23, 1979, the EPA, Region VII approved the water quality standards revisions amending subrules 16.3(3) paragraph "b", 16.3(4) paragraph "b", and 16.3(5) paragraph "e" adopted by the State on January 24, 1979. This action was based on section 303(c) of the Clean Water Act (33 U.S.C. 1313(c)). These revisions are consistent with the Clean Water Act as interpreted in the Agency's water quality standards regulations at 40 CFR 35.1550.

AVAILABILITY: Copies of the Iowa water quality standards may be obtained from the Iowa Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319.

Authority: Section 303(c) of the Clean Water Act, as amended (33 U.S.C. 1313(c))

Dated: September 10, 1979.

James N. Smith,

Assistant Administrator for Water & Waste Management.

[FR Doc. 79-28925 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1323-3; OTS-51001]

Toxic and Hazardous Substances Control; Receipt of Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of Premanufacture Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish a summary of each PMN in the **Federal Register**. This Notice announces receipt of a PMN and provides a summary.

DATE: Persons who wish to file written comments on a specific chemical substance should submit their comments no later than 30 days before tha applicable notice review period ends.

ADDRESS: Written comments should bear the PMN number of the particular chemical substance, and should be submitted in triplicate, if possible, to the Document Control Officer (TS-793), Office of Toxic Substances, EPA, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Paige Beville, Premanufacturing Preview Division (TS-794), Office of Toxic Substances, EPA, Washington, D.C. 20460, telephone: 202/426-2601.

SUPPLEMENTARY INFORMATION: Under § 5 of TSCA, any person who intends to manufacture or import a new chemical substance must submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the inventory of existing substances compiled by EPA under § 8(b) of TSCA. On May 15, 1979, EPA announced the availability of the Initial Inventory and identified June 1, 1979, as the official publication date (44 FR 28559). The § 5 requirements became effective on July 1, 1979.

A PMN must include the information listed in § 5(d)(1) of TSCA. Under § 5(d)(2) subject § 14, EPA must publish in the **Federal Register** information on the identity and uses of the substance, as well as a description of any test data submitted under § 5(b). In addition, EPA has decided that the § 5(d)(2) notice will include a description of any other test data submitted with the PMN, plus the identity of the manufacturer when possible.

Publication of the § 5(d)(2) notice is subject to § 14 concerning disclosure of confidential data. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical provides one. If no generic name is provided, EPA will develop one and publish an amended notice after providing due notice to the submitter. EPA immediately will review confidentiality claims for chemical identity and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, after complying with applicable procedures, the Agency will place the information in the public file and will publish an amended notice of the information that should have been in the original **Federal Register** notice.

Once EPA receives a PMN, the Agency normally has 90 days to review it (§ 5(a)(1)). The § 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under § 5(c), EPA may for good cause extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When manufacture begins, the submitter must report to EPA and the Agency will add the substance to the

Inventory. After the substance is added to the Inventory, anyone may manufacture it without providing EPA notice under § 5(a)(1)(A).

EPA has proposed Premanufacture Notification Requirements and Review Procedures (44 FR 2242, January 10, 1979). These requirements are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacturing requirements prior to the effective date of the premanufacture rules and forms. In particular, see the section entitled "Notice in the Federal Register" on p. 28567 of the Interim Policy.

(Sec. 5, Toxic Substances Control Act (90 Stat. 2012; (15 U.S.C. 2604)).)

Dated: September 12, 1979.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN No. 5AQH-0979-0016

Close of Review Period: December 4, 1979.

Manufacturer's Identity: National Starch and Chemical Corp., 229 South State St., Dover, DE 19901.

New Chemical Substance: The chemical name of the substance for this PMN is *n*-methanesulfonyl-p-toluenesulfonamide, having an empirical formula $C_8H_{11}NO_4S_2$ and CAS registry #14653-91-9.

Uses: The company claims the uses of this new substance confidential.

Data Submitted: The company submitted the following data concerning physical and chemical properties:

Physical state: Crystalline
Vapor pressure: Very low
Melting point: 121 degrees Centigrade
Molecular weight: 249

It did not submit any other test data concerning health or ecological effects. No information was provided concerning environmental fate except that the substance, produced in the quantity described, would have insignificant environmental impact.

Other non-confidential information concerning this notice is available in the public record in the Office of Toxic Substances Reading Room from 9 a.m. to 5 p.m. on working days (Room E-447, 401 M St., SW., Washington, DC 20460).

[FR Doc. 79-29083 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-597-DR; Docket No. NFD-742]

Commonwealth of Puerto Rico; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the Commonwealth of Puerto Rico (FEMA-597-DR), dated September 2, 1979.

DATED: September 11, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C 20472, (202) 634-7825.

NOTICE: The Notice of a major disaster for the Commonwealth of Puerto Rico dated September 2, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 2, 1979.

The following Municipalities for Public Assistance in addition to Individual Assistance:

adjuntas	Jayuya
Anasco	Juana Diaz
Arecibo	Lajas
Arroyo	Luquillo
Barceloneta	Manati
Cabo Rojo	Maricao
Canovanas	Maunabo
Carolina	Mayaguez
Catano	Morovis
Cayey	Naguabo
Ceiba	Patillas
Cidra	Penuelas
Coamo	Ponce
Culebra	Sabana Grande
Dorado	Salinas
Fajardo	San German
Guayama	Santa Isabel
Guasica	Toa Baja
Guayanilla	Vega Baja
Hormigueros	Utuado
Humacao	Yauco

For Public Assistance Only:

Ciales	Naranjito
Corazal	Rio Grande
Cuaynabo	San Juan
Gurabo	San Lorenzo
Juncos	Trujillo Alto
Las Marias	Vega Alta
Las Piedras	Yabucoa
Loiza	

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

[FR Doc. 79-28838 Filed 9-17-79; 8:45 am]

BILLING CODE 4210-22-M

[FEMA-597-DR; Docket No. NFD-741]

Commonwealth of Puerto Rico; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the Commonwealth of Puerto Rico (FEMA-597-DR), dated September 2, 1979.

DATED: September 9, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D. C. 20472 (202) 634-7825.

NOTICE: The Notice of a major disaster for the Commonwealth of Puerto Rico dated September 2, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 2, 1979.

The following Municipalities for Individual Assistance only:

Adjuntas	Maricao
Anasco	Maunabo
Cabo Rojo	Mayaguez
Catano	Morovis
Cayey	Naguabo
Ceiba	Patillas
Cidra	Penuelas
Coamo	Sabana Grande
Culebra	Salinas
Pajardo	San German
Guayama	Santa Isabel
Hormigueros	Utuado
Lajas	Yauco
Luquillo	

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

Thomas R. Casey,

Acting Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 79-28839 Filed 9-17-79; 8:45 am]

BILLING CODE 4210-22-M

[FEMA-597-DR; Docket No. NFD-740]

Commonwealth of Puerto Rico; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the Commonwealth of Puerto Rico (FEMA-597-DR), dated September 2, 1979.

DATED: September 3, 1979.

FOR FURTHER INFORMATION CONTACT: Ashley Holmes, Office of Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7825.

NOTICE: The Notice of a major disaster for the Commonwealth of Puerto Rico dated September 2, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster

by the President in his declaration of September 2, 1979.

The following Municipalities for Individual Assistance only:

Canovanas	Jayuya
Carolina	Juana Diaz
Dorado	Toa Baja
Guayanilla	Vega Baja
Guanica	

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

William H. Wilcox,

Acting Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 79-28840 Filed 9-17-79; 8:45 am]

BILLING CODE 4210-22-M

Commonwealth of Puerto Rico; Major Disaster and Related Determinations

[FEMA-597-DR; Docket No. NFD-739]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the Commonwealth of Puerto Rico (FEMA-597-DR), dated September 2, 1979, and related determinations.

DATED: September 2, 1979.

FOR FURTHER INFORMATION CONTACT: Ashley Holmes, Office of Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D. C. 20472 (202) 634-7825.

NOTICE: Pursuant to the authority vested in the Director of Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of September 2, 1979, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the Commonwealth of Puerto Rico resulting from Hurricane David beginning on or about August 29, 1979, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the Commonwealth of Puerto Rico.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Mr. Norman Steinlauf of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the Commonwealth of Puerto Rico to have been affected adversely by this declared major disaster.

The following Municipalities for Individual Assistance only:

Arecibo	Humacao
Arroyo	Manati
Barceloneta	Ponce

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

William H. Wilcox,

Acting Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 79-28841 Filed 9-17-79; 8:45 am]

BILLING CODE 4210-22-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423 or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary Federal Maritime Commission, Washington, D.C., 20573, on or before October 11, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-1768-11.

Filing Party: John E. Nolan, Assistant Port Attorney, City of Oakland, 66 Jack London Square, Oakland, California 94604.

Summary: Agreement No. T-1768-11, between the City of Oakland (City) and Sea-Land Service, Inc. (Sea-Land), modifies the parties' basic agreement which provides for the preferential assignment of certain marine terminal facilities to Sea-Land. Agreement No. T-1768-11 relieves Sea-Land of the liability for container crane PACECO No. 348 and from the responsibility for its maintenance and operation, except at such times as the crane is under secondary assignment to Sea-Land. Agreement No. T-1768-11 also relieves Sea-Land from the obligation to reimburse City for a portion of the cost of the crane insurance on PACECO No. 348 and provides for the furnishing of crane operators for container cranes PACECO Nos. 244, 240, and 241 by secondary assignees rather than Sea-Land when specifically requested by either the City or the secondary assignee during secondary assignment of said cranes.

Agreement No. T-3806-1.

Filing Party: Mr. H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111

Summary: Agreement No. T-3806-1, between the Port of Seattle (Port) and Matson Terminals, Inc. (Matson), modifies the basic agreement between the Port and Matson which provides for the 3-year lease by the Port to Matson of approximately 15 acres of container terminal facilities at terminal 18. The purpose of the modification is to add an additional 3½ acres to the leased premises and to increase the rental fees.

Agreement No. T-3854.

Filing Party: David A. Schaller, Manager, Administration, Port Everglades Authority, P.O. Box 13136, Port Everglades, Florida 33316.

Summary: Agreement No. T-3854, between the Port Everglades Authority (Authority) and Juan A. Granados (Granados), provides for the fifty (50) year lease by the Authority to Granados of certain vacant land at Port Everglades to be used for the conduct of a business devoted to receiving, dispatching, handling and storage of commodities in bulk, and such other forms of business as the Authority may from time to time consent to in writing.

Agreement No. 8260-19.

Filing Party: Stanley O. Sher, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 8260-19, among the member lines of the Mediterianean U.S.A. Great Lakes Westbound Freight Conference, would extend the conference's intermodal authority indefinitely from its present expiration date of December 6, 1979.

Agreements Nos. 8470-8 and 8480-5.

Filing Party: F.L. Wyche, Esq., Attorney-In-Fact, Household Goods Carriers' Bureau 2425 Wilson Boulevard, Arlington, Virginia 22201.

Summary: Agreements Nos. 8470-8 and 8480-5 would add the Northern Mariana Islands to the scopes of, respectively, the Household Goods Carriers' Bureau International Household Goods Rate Agreement and the Household Goods

Carrier's Bureau Domestic Household Goods Rate Agreement.

Agreement No. 9548–16.

Filing Party: Stanley O. Sher, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 9548–16 modifies the basic agreement of the North Atlantic Mediterranean Freight Conference to provide that the conference members may agree upon and publish credit rules including a bonding and/or security requirement and/or provision denying credit.

Agreement No. 10025–2.

Filing Party: Stanley O. Sher, Esq., Billig, Sher & Jones, P.C. Suite 300 2033 K Street, N.W. Washington, D.C. 20006.

Summary: Agreement No. 10025–2 amends Articles 7 and 8 of the basic agreement of the U.S. Atlantic and Gulf/Red Sea and Gulf of Aden Rate Agreement to (1) conform to the self-policing requirements set forth in General Order 7, Revised, and (2) establish a $50,000 security deposit as a guarantee of faithful performance of obligations under the agreement.

By Order of the Federal Maritime Commission.

Dated: September 13, 1979.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 79–28875 Filed 9–17–79; 8:45 am]

BILLING CODE 6730–01–M

Independent Ocean Freight Forwarder License No. 2010; T & T International Freight Forwarders, Inc.; Order of Revocation.

On August 30, 1979, Nat Naccarato, Receiver for T & T International Freight Forwarders, Inc. 7461 N.W. 8th Street, Miami, Florida 33126, voluntarily surrendered Independent Ocean Freight Forwarder License No. 2010 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 2010 issued to T & T International Freight Forwarders, Inc. be and is hereby revoked effective August 30, 1979.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon T & T International Freight Forwarders, Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79–28876 Filed 9–17–79; 8:45 am]

BILLING CODE 6730–01–M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were accepted by the Regulatory Reports Review Staff, GAO, on September 12, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before October 9, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Interstate Commerce Commission

The ICC requests an extension without change clearance of Form TCS, Annual Report Form of Freight Commodity Statistics, required to be filed by approximately 634 Class I Motor Carriers of Property, pursuant to Section 220 of the Interstate Commerce Act. Data collected by this form are used for economic regulatory purposes. The ICC estimates that reporting burden averages 470 hours per report. Reports are mandatory and available for public use, except that traffic of less than 3 shippers of a single commodity may be excluded and filed in a supplemental report not open to public inspection.

The ICC requests an extension without change clearance of Form F–2, Annual Report, required to be filed by approximately 29 Class B Freight Forwarders, pursuant to Section 11145 of the Interstate Commerce Act. Data are used for economic regulatory purposes. Schedule 12 in the 1978 report which was adopted by the Commission in Docket No. 35345, July 1, 1977, will no longer be required. The ICC estimates that reporting burden averages 8 hours per report. Reports are mandatory and available for use by the public.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79–28860 Filed 9–17–79; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of October 1979.

Epidemiologic and Services Research Review Committee, October 8–10; 9:00 a.m., Holiday Inn—Georgetown, Conference Rooms A and B, 2101 Wisconsin Avenue, Washington, D.C. 20007. Open—October 8, 9:00–10:00 a.m. Closed—Otherwise. Contact Shirley R. Margolis Room, 10C–09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443–3774.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to mental health services research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00–10:00 a.m. October 8, the meeting will be open for discussion of administrative announcements and program developments. Otherwise the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Alcohol Biomedical Research Review Committee, October 17–19, 9:00 a.m., Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland. Open—October 17, 9:00 a.m.–11:00 a.m. Closed—Otherwise. Contact: Kenneth R. Warren, Ph.D., Parklawn Building, Room 16C–16, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443–4223.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to research

activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda. From 9:00–11:00 a.m., October 17, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Alcohol Psychosocial Research Review Committee, October 17–19 9:00 a.m. Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland. Open—October 17, 9:00 a.m.–12:00 noon. Closed—Otherwise. Contact: James C. Teegarden, Ph.D., Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443–4223.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on alcohol Abuse and Alcoholism relating to research activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda. From 9:00 a.m.–12:00 noon, October 17, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Basic Psychopharmacology and Neuropsychology Research Review Committee, October 18–19, 9:00 a.m., Holiday Inn, 8777 Georgia Avenue, Silver Spring, Maryland. Open—October, 18, 9:00–9:30 a.m. Closed—Otherwise. Contact: Allyson Rowell, Room 9–97, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443–3454.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas adminstered by the National Institute of Mental Health relating to preclinical psychopharmacology research and neuropsychology research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00–9:30 a.m. October 18, the meeting will be open for discussion of adminstrative announcements and program developments. Otherwise, the committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Community Processes and Social Policy Review Committee, October 18–20, 9:00 a.m. Conference Room 911, the Gramercy Inn, 1616 Rhode Island Avenue, Washington, D.C. Open—October 18, 9:00–9:30 a.m. Closed—Otherwise. Contact Mrs. Phyllis Pinzow, Room 15–99, Parklawn Building, 5600 Fishers Lane Rockville, Maryland 20857, 301/443–3373.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to community mental health issues from an ecological-social systems perspective, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00–9:30 a.m., October 18, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Paraprofessional Education Review Committee, October 19; 9:00 a.m. Open. Conference Room H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Contact Ms. Carolyn Snowden, Parklawn Building, Room 9A–54, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443–4868.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to Paraprofessional mental health worker education and makes recommendations to the National Advisory Council for final review.

Agenda. From 9:00 a.m.–5:00 p.m., October 19, the meeting will be open for discussion of administrative announcements, program developments and review criteria in light of new initiatives and priorities of the Institute.

Alcohol Training Review Committee, October 22–23, 9:00 a.m. Quorum Room, Rockville Ramada Inn, 1251 West Montgomery Avenue, Rockville, Maryland 20850. Open—October 22, 9:00 a.m.–11:00 a.m. Closed—Otherwise. Contact: Robert E. Davis, Room 14C–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443–2550.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism, ADAMHA, relating to training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda. From 9:00 a.m.–11:00 a.m., October 22, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Drug Abuse Biomedical Research Review Committee, October 22–26, 9:00 am.–5:00 p.m., Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, Open—October 22, 9:00 a.m.–10:30 a.m. Closed—Otherwise, Contact: J. Michael Morrison, Room 10–42, Parklawn Building, 5600 Fishers Lane, rockville, Maryland 20857, 301/443–2620.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to research and research training activities and make recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda. From 9:00 a.m. to 10:30 a.m., October 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator,

Alcohol, Drug Abuse, and Mental health Administrator, pursuant to the provisions of Section 552b(c)(6) title 5 U.S. code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Drug Abuse Clinical, Behavioral, and Psychosocial Research Review Committee, October 22–26, 9:00 a.m.–5:00 p.m. Conference Rooms K and N, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open: October 22, 9:00 a.m.–10:30 a.m. Closed: Otherwise. Contact: Daniel L. Mintz, Room 10–42, Parklawn Building, 5600 Fishers Lane Rockville, Maryland, 301/443–2620.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administrated by the National Institute on Drug Abuse relating to research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda. From 9:00 a.m. to 10:30 a.m., October 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental health Administration, pursuant to the provisions of Section 552b(c)(6) Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Drug Abuse Resource Development Review Committee, October 22–26; (9:00 a.m. Conference Room L, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Open: October 22, 9:00–10:30 a.m. Closed: Otherwise. Contact: Thomas C. Voskuhl, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443–2620.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to demonstration treatment services, prevention and education, and training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda. From 9:00 to 10:30 a.m., October 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Title 5, U.S. Code 552b(c)(6) and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Basic Behavioral Processes Research Review Committee, October 24–26, (9:00 a.m. Holiday Inn-Georgetown, 2505 Wisconsin Avenue. NW., Washington, D.C. 20007 Open: October 24, 9:00–9:30 a.m. Closed: Otherwise. Contact Dr. John Hammack, Room 10–95, Parklawn Building, 5600 Fishers Lane, Rockville. Maryland 20857, 301/443–3936.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to basic behavioral processes research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00–9:30 a.m., October 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Criminal and Violent Behavior Review Committee, October 24–26, 9:00 a.m. Gramercy Inn, 1616 Rhode Island Avenue, NW, Washington, D.C. 20005. Open: October 24, 9:00–11:00 a.m. Closed: Otherwise. Contact Authur K. Leabman, Room 9A–54, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443–4868.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program area administered by the National Institute of Mental Health relating to research and training activities in crime and delinquency, related law and mental health interactions, individual violent behavior, and sexual assault, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00–11:00 a.m., October 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, purusant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Community Alcoholism Services Review Committee, October 24–29. The Wellington, 2505 Wisconsin Avenue NW, Washington, D.C. 20007. Open—October 24, 6:30 p.m.—8:30 p.m. Closed—Otherwise. Contact: Phillip Dawes, Room 11–10, Parklawn Building, 5600 Fishers Lane Rockville, Maryland 20857, 301/443–2473.

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to alcoholism services activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda. From 6:30 p.m. to 8:30 p.m., October 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(60, Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Board of Scientific Counselors, NIMH, October 25–26. Building 36, Conference Room 1B–07, National Institutes of Health, Bethesda, Maryland 20205. Open: October 25, 9:30–10:00 a.m. Closed: Otherwise. Contact Dr. John C. Eberhart, Building 36, Room 1A–05, National Institutes of Health, Bethesda, Maryland 20205, 301/496–3501.

Purpose. The Board of Scientic Counselors provides expert advice to the Director, NIMH, on the mental health intramural research program through periodic visits to the laboratories for assessment of the research in progress and evaluation of productivity and performance of staff scientists.

Agenda. The Board will meet for approximately 30 minutes for a report by the Director and Deputy Director of Intramural Research, NIMH, on recent administrative developments. The remainder of the two-day session will be devoted to a review of intramural research projects from the Laboratories of Neurochemistry and General and Comparative Biochemistry, and the evaluation of individual scientific programs, and will not be open to the

public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Minority Group Mental Health Review Committee, October 25–27, 9:00 a.m. Shoreham American, 2500 Calvert Street, NW., Washington, D.C. Open: October 25, 9:00–11:00 a.m. Closed: Otherwise. Contact Edna M. Hardy Hill, Room 9A54, Parklawn Building 5600 Fishers Lane, Rockville, Maryland 20857, 301/443–4868.

Purpose. The Committee is charged with the initial review of grant applications for Federal Assistance in the program areas administered by the National Institute of Mental Health relating to minority mental health research and training and makes recommendatiaons to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 to 11:00 a.m. on October 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychopathology and Clinical Biology Research Review Committee, October 29–31, 9:00 a.m. Sheraton Potomac Inn, 3 Research Court, Rockville, Maryland. Open: October 29, 9:00–10:00 a.m. Closed: Otherwise. Contact Mrs. Harriet German, Room 10C–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443–3367.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to clinical research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00–10:00 a.m. October 29, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Life Course Review Committee, October 31–November 2, 9:00 a.m. Thomas Payne Room & Ethan Allen Room, Sheraton Park Hotel, 2660 Woodley Road, N.W., Washington, D.C. 20008. Open: October 31, 9:00–10:00 a.m. Closed: Otherwise. Contact Mrs. Diana Souder, Room 10–104, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443–3566.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the fields of child and family and aging and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 to 10:00 a.m., October 31, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. The NIAAA Information Officer who will furnish summaries of the meetings and rosters of the Committee members is Mr. Harry Bell, Associate Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 11A–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3306. The NIDA Information Officer who will furnish summaries of the meetings and rosters of the Committee members is Ms. Mary Carol Kelly, Program Information Officer for Drug Abuse, NIDA, Room 10A–56, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–6245. The NIMH Information Officer who will furnish summaries of the meetings and rosters of the Committee members is Mr. Paul Sirovatka, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–4536.

Dated: September 12, 1979.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79–28816 Filed 9–17–79; 8:45 am]

BILLING CODE 4110–88–M

Food and Drug Administration

[Docket No. 79N–0169; DESI 12283]

Chlorthalidone; Drugs for Human Use; Drug Efficacy Study Implementation; Announcement and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that chlorthalidone tablets in potencies of 25 and 50 milligrams have been determined to be effective for the treatment of hypertension and certain types of edema. Conditions for marketing these products for the indications for which they are regarded as effective are also announced. FDA offers an opportunity for hearing on the proposal to withdraw approval of that portion of the new drug application providing for chlorthalidone 100-milligram tablets.

DATES: Hearing requests due on or before October 18, 1979; bioavailability supplements to approved new drug applications due on or before March 17, 1980; other supplements and data in support of hearing requests due on or before November 19, 1979.

ADDRESSES: Communications in response to this notice should be identified with the reference number DESI 12283, 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 Cardio-Renal Drug Products (HFD–110), Rm 16B–30, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD–530), 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 published in the **Federal Register** of July 9, 1966 (31 FR 9426), FDA asked each holder of a new drug application that became effective before October 10, 1962, to submit reports containing the best data available in support of the effectiveness of each such product for the claimed indications. The agency needed that information to determine, with the assistance of the National Academy of Sciences-National Research Council (NAS–NRC), whether each claim in the labeling is supported by substantial evidence of effectivness, as required by the Drug Amendments of 1962.

Because Geigy Pharmaceuticals, then the sponsor of Hygroton Tablets, did not submit such information, the drug was not reviewed by NAS–NRC.

On March 31, 1972, FDA issued a letter to USV Pharmaceutical Corp. permitting the transfer of the application for Hydroton Tablets 50 and 100 milligrams from Geigy Pharmaceuticals to USV Pharmaceutical Corp. (Later the name of the sponsor was changed from USV Pharmaceutical Corp., to USV Pharmaceutical Manufacturing Corp., and finally to USV Laboratories, Inc.)

On September 24, 1975, USV supplemented its new drug application to provide for a 25-milligram chlorthalidone tablet, in addition to its 50- and 100-milligram tablets. The agency evaluated data that USV submitted comparing the dissolution rates of the three potencies, and on March 25, 1976, issued a letter permitting, without approval, the marketing of the 25-milligram tablet, pending a determination of whether there is substantial evidence of effectiveness of the drug for the claimed indications.

NDA 12–283; Hygroton Tablets, containing chlorthalidone 25, 50, or 100 milligrams per tablet; USV Laboratories Inc., P.O. Box 345, Manati, Puerto Rico, 07001.

After reviewing data submitted by USV and data from the literature, FDA has determined that there is substantial evidence of effectiveness of chlorthalidone for its labeled indications. Controlled clinical trials have shown that the daily dose of chlorthalidone needed in hypertension is usually 25 milligrams, rather than the 50–100 milligrams recommended in the past, and that, as the dose is increased to 50 and 100 milligrams a day, there is a greater fall in serum potassium and rise in uric acid levels, without further fall in blood pressure. This was demonstrated by the study by Martin G. Tweeddale, et al., "Antihypertensive and Biochemical Effects of Chlorthalidone" and Barry J. Materson, et al., "Dose Response to Chlorthalidone in Patients with Mild Hypertension." The Tweeddale study, a 4-way double-blind crossover study using daily doses of 25, 50, 100, or 200 milligrams chlorthalidone to treat patients with mild to moderate hypertension, showed that two-thirds of the patients had maximum reduction in blood pressure on a dose of 50 milligrams or less chlorthalidone daily. The Materson study, a 5-way double-blind crossover study using daily doses of 12.5, 25, 50, or 75 milligrams chlorthalidone or placebo, showed that chlorthalidone, 25 milligrams daily, was at least as effective for hypertension as 50 and 75 milligrams with less disturbance of the potassium levels.

Although there may be occasional patients who will need more than 25–50 milligrams chlorthalidone daily, FDA is not aware of a defined population that requires a dosage form containing 100 milligrams chlorthalidone. Considering the risks of this dose, excessive hypokalemia and hyperuricemia, the Director of the Bureau of Drugs concludes that there is no longer a justification for the continued marketing of the 100-milligram dosage form of chlorthalidone.

Therefore this notice announces the conditions under which chlorthalidone 25- and 50-milligram tablets may be marketed for their effective indications and offers an opportunity for a hearing on the proposed withdrawal of approval of the 100-milligram strength.

Chlorthalidone Tablets Containing Less Than 100 Milligrams

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 products 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 a 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 or 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 a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

Bioavailability data have been received from another drug firm which demonstrated that its chlorthalidone product was about 50 percent more available than USV's Hygroton product, as judged by peak plasma concentration (CMax), area under the plasma concentration-time curve (AUC), and urinary excretion of unchanged drug. These results clearly demonstrated that these two products are not bioequivalent.

As stated in the **Federal Register** of August 23, 1977 (42 FR 42311), the provision of 21 CFR 320.22(c) waiving the requirement for bioavailability data for certain drugs does not necessarily apply to drug products first announced as effective in DESI notices published after January 7, 1977. As this is the first notice announcing that chlorthalidone is effective, FDA has reviewed the drug for actual or potential bioavailability problems and has determined that chlorthalidone should be added to the list of drugs for which bioavailability data are not waived.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications 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 abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in tablet 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. The indications are as follows:

For use in the management of hypertension either as the sole therapeutic agent or to enhance the effect of other antihypertensive drugs in the more severe forms of hypertension.

As adjunctive therapy in edema associated with congestive heart failure, hepatic cirrhosis, and corticosteroid and estrogen therapy.

For use in edema due to various forms of renal dysfunction such as the nephrotic

syndrome, acute glomerulonephritis, and chronic renal failure.

Usage in Pregnancy: The routine use of diuretics in an otherwise healthy woman is inappropriate and exposes mother and fetus to unnecessary hazard. Diuretics do not prevent development of toxemia of pregnancy, and there is no satisfactory evidence that they are useful in the treatment of developed toxemia.

Edema during pregnancy may arise from pathological causes or from the physiologic and mechanical consequences of pregnancy. Chlorthalidone is indicated in pregnancy when edema is due to pathologic causes, just as it is in the absence of pregnancy (however, see Warnings below). Dependent edema in pregnancy, resulting from restriction of venous return by the expanded uterus, is properly treated through elevation of the lower extremities and use of support hose; use of diuretics to lower intravascular volume in this case is illogical and unnecessary. There is hypervolemia during normal pregnancy which is harmful to neither the fetus nor the mother (in the absence of cardiovascular disease) but which is associated with edema, including generalized edema in the majority of pregnant women. If this edema produces discomfort, increased recumbency will often provide relief. In rare instances, this edema may cause extreme discomfort which is not relieved by rest. in these cases, a short course of diuretics may provide relief and may be appropriate.

3. *Marketing Status.* a. Marketing of such drug products that are the subject of a new drug application approved before October 10, 1962, may be continued provided that, on or before November 19, 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 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)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

In addition, to permit full approval of such application on the basis of effectiveness, as well as safety, the holder of the application is required to supplement its application, on or before March 19, 1980, to provide in vitro dissolution tests and in vivo bioavailability studies on the drug products. These studies are to be conducted in accordance with the methods provided for in the guidelines on conducting dissolution tests and bioavailability studies, which are available from the Division of Biopharmaceutics at the address given above. The drug products are to be compared to an oral solution of chlorthalidone and are required to be 80 percent bioavailable as compared to the oral solution. If the NDA holder wishes to submit the protocol for its study, the date by which bioavailability data are due will be extended by the time required by the Division of Biopharmaceutics to review and comment on the protocol.

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained before marketing such products. The bioavailability regulations (21 CFR 320.21) published in the Federal Register of January 7, 1977, require any person submitting an abbreviated new drug application after July 7, 1977, to include evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. No waiver will be granted for chlorthalidone. However, the bioavilability requirement will be regarded as satisfied by supplying the information stated in 3.a above.

Marketing before approval of a new drug application will subject such products, and the persons who caused the products to be marketed, to regulatory action.

Chlorthalidone 100-Miligram Tablets

Therefore, notice is given to the holder of the new drug application and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of those parts of the new drug application providing for chlorthalidone 100-milligram tablets and all amendments and supplements thereto. He is taking this action on the ground that new evidence of clinical experience, not contained in the application or not available to him until after the application was approved, evaluated together with the evidence available when the application was approved, and considered with the fact that the recommended daily dose of chlorthalidone is no longer 100 milligrams and therefore there is no patient population that requires this dose, shows that the drug product is not shown to be safe for use under the conditions of use upon the basis of which the application was approved.

In addition to the holder of the new drug application specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product which is identical, related, or similar to chlorthalidone 100-milligram tablets as defined in 21 CFR 310.6 or contains more than 50 milligrams per tablet. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug product subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, contained in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962 or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant and all other persons subject to this notice under 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product named above and of all identical, related, or similar drug products.

The applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing shall file (1) on or before October 18, 1979, a written notice of appearance and request for hearing, and (2) on or before November 19, 1979, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of the applicant or any other persons subject ot this notice under 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with

respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug product from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate. Such submissions except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: September 12, 1979.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 79-28815 Filed 9-17-79; 8:45 am]

BILLING CODE 4110-03-M

Office of Education

Supplemental Educational Opportunity Grant, College Work-Study, and National Direct Student Loan Programs; Notice of Closing Dates for Filing Applications, Corrections and Appeals for Funds, and for Establishing Eligibility

The Commissioner of Education gives notice that:

1. An eligible institution of higher education may apply for fiscal year 1980 funds—for use in the 1980–81 award period—under the Supplemental Educational Opportunity Grant (SEOG), College Work-Study (CWS), and National Direct Student Loan (NDSL) programs; and

2. An eligible area vocational school may apply for fiscal year 1980 funds—for use in the 1980–81 award period—under the CWS program.

These programs allocate to institutions funds to assist students who need financial aid to meet the cost of postsecondary education.

The SEOG, CWS, & NDSL Programs are authorized respectively by Title IV–A–2, C, and E of the Higher Education Act of 1965.

(20 U.S.C. 1070b–1070b–3; 42 U.S.C. 2751–2756; and 20 U.S.C.1087aa–1087gg)

a. *Closing dates.* Applicants shall observe the following closing dates:

1. October 16, 1979—for establishing institutional eligibility and submitting applications for funds.

2. December 14, 1979—for a) submitting corrections to applications for funds or to fiscal-operations reports, or b) certifying that the edited version of the data contained in the application/report received from the Commissioner is correct.

3. February 18, 1980—for submitting appeals for funds.

b. *Application forms and information.* Application forms are being prepared but are not yet available. The application form for 1980–81 is combined with the fiscal-operations report form for 1978–79. We anticipate that the application/report forms and instructions will be ready for mailing on or about September 14, 1979.

An applicant institution shall prepare and submit its application/report in accordance with the instructions included in the package sent to it.

The Commissioner reviews and edits, by computer, application/reports. The Commissioner mails to each institution an edited version of the data contained in its application/report. The Commissioner also uses this document to notify the institution of its tentative funding level in each program. The institution must review this document for the purpose of correcting any erroneous data. Its corrections, or a certification that all data are correct, must be mailed to the Office of Education by December 14, 1979.

The notice of tentative funding levels also includes instructions to an institution that may wish to appeal one or more recommended amounts. An institution that files an appeal shall file in accordance with these instructions.

All appeals must be submitted by February 18, 1980.

c. *Applications and appeals sent by mail.* An applicant shall address a mailed application or appeal to the U.S. Office of Education, Bureau of Student Financial Assistance, Division of Program Operations, Campus and State Grant Branch, Room 4621, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, D.C. 20202.

For an application or an appeal to be assured of consideration, an applicant must mail it on or before the pertinent closing date and must provide the following proof of mailing.

Proof of mailing consists of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of the mailing stamped by the U.S. Postal Service.

Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

Note.—The U.S. Postal Service does not uniformly provide a dated postmark. An applicant should check with its local post office before relying on this method.

The Commissioner encourages an applicant to use registered or first-class mail.

d. *Applications and appeals delivered by hand.* An application or an appeal that is hand-delivered must be taken to: The U.S. Office of Education, Bureau of Student Financial Assistance, Division of Program Operations, Campus and State Grant Branch, Room 4621, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Campus and State Branch will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays Sundays, and Federal holidays.

e. *Eligibility deadline.* The Commissioner accepts applications only from institutions that the Commissioner has determined, before October 16, 1979, to be eligible institutions of higher education under sections 435(b), 491(b) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1085(b), 1088(b), 1141(a)).

Similarly, the Commissioner accepts applications only from area vocational schools that the Commissioner has determined, before October 16, 1979, to be eligible area vocational schools under section 195(2) of the Vocational Educational Act of 1963 (20 U.S.C. 2461(2); 42 U.S.C. 2753).

f. *Further information.* For further information contact Mr. Robert Coates, Chief, Campus and State Grant Branch, U.S. Office of Education, Bureau of Student Financial Assistance, Division of Program Operations, Room 4621, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, D.C. 20202; telephone (202) 245–2320.

g. *Applicable regulations.* The regulations applicable to these programs are:

1. SEOG: 45 CFR Part 176;
2. CWS: 45 CFR Part 175; and
3. NDSL: 45 CFR Part 174.

All of these program regulations were published in the **Federal Register** on August 13, 1979 (44 FR 47444–47506).

(20 U.S.C. 1070b–3; 42 U.S.C. 2756; 20 U.S.C. 1087bb(b))

(Catalog of Federal Domestic Assistance No. 13.418, Supplemental Educational Opportunity Grant Program; 13.463, College Work-Study Program; and 13.471, National Direct Student Loan Program)

Dated: September 12, 1979.

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-28810 Filed 9-17-79; 8:45 am]

BILLING CODE 4110-02-M

Social Security Administration

Social Security for Your Future; Meetings

AGENCY: Social Security Administration, HEW.

ACTION: Notice of National and Regional Symposia.

The Social Security Administration is beginning a major effort to increase public understanding of the social security retirement, survivor's, and disability program. This notice announces a special series of national and regional symposia which we are initiating as an "Outreach Symposia Project". This "Project" is designed to present information about social security and to provide a forum for discussion of major issues facing the program.

Presentations and discussions at the meetings will focus on the value and benefits of the existing program, its financing, and the impact on the program of changing demographics and social behavior, such as the changing roles of men and women.

ADDRESSES AND DATES: For information about the symposia, or local town meetings which will be scheduled after the symposia, call or write the contacts listed below (marking envelopes "Social Security Outreach Symposia Project"). The national and regional symposia are scheduled as follows:

National Symposium

Date: October 3, 1979.
Place: Hubert H. Humphrey Building, Washington, D.C.
Contact: Mr. Peter Spencer, Social Security Administration Room 933
Altmeyer Building, 6401 Security Boulevard Baltimore, Maryland 21235.
Telephone (301) 594–1631.

Regional Symposia

Region 1—Consisting of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.
Date: November 16, 1979.
Place: Lenox Hotel, Boston, Massachusetts.
Contact: Ms. Susan O'Connell, Social Security Administration, J. F. Kennedy Federal Building, Room 1109, Boston, Massachusetts 02203.
Telephone (617) 223–6857.
Region II—Consisting of New Jersey, New York, Puerto Rico, and the Virgin Islands.
Date: October 29, 1979.
Place: Hotel Statler, New York, New York.
Contact: Mr. Morris Ordover, Social Security Administration, Federal Building, Room 4034, 26 Federal Plaza, New York, New York 10007.
Telephone (212) 264–2500.
Region III—Consisting of Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virigina.
Date: November 15, 1979.
Place: Holiday Inn, Independence Mall, Philadelphia, Pennsylvannia.
Contact: Mr. Thomas Niessen, Social Security Administration, P.O. Box 8788, Philadelphia, Pennsylvania 19101.
Telephone (215) 596–1508.
Region IV—Consisting of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
Date: November 30, 1979.
Place: Atlanta Sheraton, Atlanta, Georgia.
Contact: Ms. Maxine McNutt, Social Security Administration, 101 Marietta Tower, Suite 1705, Atlanta, Georgia 30323. Telephone (404) 221–2512.
Region V—Consisting of Illinois, Indiana, Minnesota, Michigan, Ohio, and Wisconsin.
Date: November 7, 1979.
Place: Radisson Chicago Hotel, Chicago, Illinois.
Contact: Ms. Judy Halas, Social Security Administration, 300 South Wacker Drive, 27th Floor, Chicago, Illinois 60606.
Telephone (312) 353–4246.
Region VI—Consisting of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
Date: October 31, 1979.
Place: Fort Worth Hilton, Fort Worth, Texas.
Contact: Ms. Billie Thompson, Social Security Administration, 1200 Main Tower Building, Dallas, Texas 75202. Telephone (214) 749–4339.
Region VII—Consisting of Iowa, Kansas, Missouri, and Nebraska.
Date: November 8, 1979.
Place: Glenwood Manor, Kansas City, Kansas.
Contact: Mr. Donald Wilhelm, Social Security Administration, Federal Building, 4th Floor, 601 East Twelfth Street, Kansas City, Missouri 64106. Telephone (816) 374–6196.
Regional VIII—Consisting of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.
Date: November 27, 1979.
Place: Colorado Women's College, Denver, Colorado.
Contact: Ms. Sarah Crumley, Social Security Administration, Federal Building, Room 1185, 1961 Stout Street, Denver, Colorado 80294.
Telephone (303) 837–5481.
Region IX—Consisting of American Samoa, Arizona, California, Guam, Hawaii, and Nevada.
Date: December 12, 1979.
Place: Los Angeles Hilton (Downtown), Los Angeles, California.
Contact: Ms. Natalie Rapp, Social Security Administration, 100 Van Ness Avenue, 28th Floor, San Francisco, California 94102. Telephone (415) 556–4270.
Region X—Consisting of Alaska, Idaho, Oregon, and Washington.
Date: November 20, 1979.
Place: Olympic Hotel, Seattle, Washington.
Contact: Ms. Annette Siverson, Social Security Administration, Arcade Plaza Building, 1321 Second Avenue, Mail Stop 205, Seattle, Washington 98101. Telephone (206) 442–4057.

General telephone or written inquiries concerning the Outreach Symposia Project should be directed to Mr. Peter Spencer (see National Symposium for address and telephone number).

(Catalog of Federal Domestic Assistance Program Numbers 13.802, Social Security—Disability Insurance; 13.803, Social Security—Retirement Insurance; and 13.805, Social Security—Survivors Insurance.)

Dated: September 14, 1979.

Stanford G. Ross,

Commissioner of Social Security.

[FR Doc. 79-29103 Filed 9-17-79; 10:14 am]

BILLING CODE 4110-07-M

DEPARTMENT OF INTERIOR

Bureau of Land Management

[U-43880]

Utah; Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a 4½" and a 6⅝" natural gas pipeline right-of-way across the following lands:

Salt Lake Meridian, Utah

T. 9 S., R. 24 E.,
Secs. 5, 8, and 17.

The needed right-of-way is a portion of applicant's gas gathering system located in Uintah County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Vernal District Manager, Bureau of Land

Management, P.O. Box F, Vernal Utah 84078.

Dell T. Waddoups,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-28771 Filed 9-17-79; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Preservation and Protection of Endangered Leatherback Sea Turtle Habitat on Sandy Point, St. Croix, U.S. Virgin islands.

AGENCY: Fish and Wildlife Service, Department of Interior

ACTION: Notice of Intent to Prepare a DEIS.

SUMMARY: The proposed Federal action is to evaluate and select a preferred alternative for the preservation and protection of leatherback sea turtle nesting habitat on Sandy Point, St. Croix, U.S. Virgin Islands.

(2) Reasonable alternatives include acquisition, increased surveillance and no action.

(3) Scoping for the proposed action will include informal meetings and correspondence with Territorial agencies, conservation organizations and local interest groups.

(4) The Jacksonville Area Office of the Fish and Wildlife Service estimates that the DEIS will be released for public review in February 1980.

ADDRESS: Questions about the proposed action and the DEIS should be directed to Mr. Donald J. Hankla, Area Manager, Jacksonville Area Office, U.S. Fish and Wildlife Service, 900 San Marco Boulevard, Jacksonville, Florida 32207.

Dated: September 10, 1979.

Donald J. Hankla,

Area Manager.

[FR Doc. 79-28624 Filed 9-17-79; 8:45 am]

BILLING CODE 4310-55-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 September 7, 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 on a request for additional time to prepare comments should be submitted by September 28, 1979.

Carol Shull,

Acting Chief, Registration Branch.

ALABAMA

Jefferson County

Birmingham, *Caldwell-Milner Building*, 2015 1st Ave., North.

Birmingham, *McAdory Building*, 2013 1st Ave., North.

CALIFORNIA

Del Norte County

Klamath vicinity, *Redwood Highway*, W of Klamath.

Mendocino County

Boonville vincinity, *Con Creek School*, 2 mi. N of Boonville on CA 128.

Siskiyou County

Forks of Salmon, *Fong Wah Cemetery*.

INDIANA

Allen County

Fort Wayne, *Strunz, Christian G., House*, 333 E. Berry St.

IOWA

Adair County

Greenfield, *Warren Opera House Block and Heterington Block*, 156 Public Sq.

Allamakee County

Lansing, *Kerndt, G., Brothers Elevator and Warehouses No. 11, 12, and 13*, Front St.

Cerro Gordo County

Mason City, *Rule, Duncan, House*, 321 2nd St., SE.

Dallas County

Adel, *Dallas County Courthouse*, 8th and Main Sts. (boundary increase).

Pottawattamie County

Council Bluffs, *Tulleys, Lysander W., House*, 151 Park Ave.

MARYLAND

Washington County

Hagerstown vicinity, *Rohrer House*, E of Hagerstown.

MASSACHUSETTS

Worcester County

Gardner, *First Minister's House*, 186 Elm St.

Gardner, *Gardner News Building*, 309 Central St.

Gardner, *Smith, F. W., Silver Company*, 60 Chestnut St.

MICHIGAN

Wayne County

Detroit, *Columbia (steamer)*, 661 Civic Center Dr.

Detroit, *Ste. Claire (steamer)*, 661 Civic Center Dr.

MINNESOTA

Carver County

Waconia vicinity, *Peterson, Andrew, Farmstead*, NE of Waconia on MN 5.

Goodhue County

Frontenac vicinity, *Sand Point Prehistoric District*.

Jackson County

Jackson vicinity, *Robertson Park Site*.

Lincoln County

Hendricks, *Boy Scout Hill Site*.

Redwood County

Morgan vicinity, *St. Cornelia's Episcopal Mission Church*, off SR 2.

MISSISSIPPI

Adams County

Natchez, *Roos House, 208 Linton Ave.*

NEW HAMPSHIRE

Carroll County

Moultonborough vicinity, *Windermere*, SW of Moultonborough on Long Island.

NEW MEXICO

Otero County

La Luz, *La Luz Townsite Historic District*, Off NM 83.

NEW YORK

Columbia County

Linlithgo vicinity, *Teviotdale*, S of Linlithgo on Wire Rd.

NORTH CAROLINA

Davie County

Advance vicinity, *Fulton United Methodist Church*, S of Advance off NC 801.

NORTH DAKOTA

Barnes County

Valley City, *Valley City Carnegie Library*, 413 Central Ave.

Cass County

Fargo, *Lewis House*, 1002 3rd Ave. South

Ransom County

Lisbon, *Lisbon Opera House*, 413 Main Ave.

OREGON

Jackson County

Ashland, *Atkinson, W. H., House*, 125 N. Main St.

Ashland, *Woolen, Isaac, House*, 131 N. Main St.

Central Point vicinity, *Beall, Robert Vinton, House*, S of Central Point at 1253 Beall Lane.

Josephine County

Grants Pass, *Redwoods Hotel*, 310 NW. 6th St.

TENNESSEE

Shelby County

Memphis, *Annesdale-Snowden Historic District*, roughly bounded by I-225, Lamar Ave. and Heistan Pl.

Memphis, *Overton Park Historic District*, I-40.

TEXAS

Bandera County

Bandera, *Bandera County Courthouses and Jail*, Public Sq., 12th and Maple Sts.

Bosque County

Meridian, *First National Bank Building*, Main and Morgan Sts.

Bowie County

Texarkana, *Whitaker House*, 517 Whitaker St.

Edwards County

Rocksprings, *Edwards County Courthouse and Jail*, Public Sq.

Gillespie County

Fredericksburg vicinity, *Fort Martin Scott*.

Hardeman County

Quanah, *Quanah, Acme and Pacific Depot*, 100 Mercer St.

Harrison County

Marshall, *Stinson, John R., House (Gaines, Belle Fry, House)* 313 W. Austin St.

Marshall, *Turner, James, House*, 406 S. Washington Ave.

Hudspeth County

Sierra Blanca vicinity, *Tinaja De Las Palmas Battle Site*, SE of Sierra Blanca.

Lee County

Giddings vicinity, *Droemer Brickyard Site*, 1 mi. SW of Giddings on Old Serbin Rd.

Williamson County

Georgetown, *Railroad Produce Depot*, 401 W. 6th St.

UTAH

Emery County

Castle Dale vicinity, *Johansen Peter, House*, N of Castle Dale off UT 29.

Ferron vicinity, *Singleton, Samuel, House*, S of Ferron on UT 10.

Sanpete County

Mount Pleasant, *Mount Pleasant Commercial Historic District*, U.S. 89 and UT 116.

WASHINGTON

King County

Seattle, *U.S. Courthouse*, 1010 5th Ave.

[FR Doc. 79-28557 Filed 9-17-79; 8:45 am]

BILLING CODE 4310-03-M

National Park Service

Public Meetings on Draft Management and Use Alternatives; Chattahoochee River National Recreation Area

Notice is hereby given of public meetings to be held for the purpose of explaining and receiving comment on draft alternatives for the management and use of the Chattahoochee River National Recreation Area.

October 2, 1979, at 7:30 p.m.; North Gwinnett High School, Level Creek Road, Suwanee, Georgia.

October 4, 1979, at 7:30 p.m.; Room 201, Urban Life Center, Georgia State University, Decatur at Piedmont, Atlanta, Georgia.

October 6, 1979, at 9:30 a.m.; Auditorium, North Fulton Annex Building, 7741 Roswell Road, Sandy Springs, Georgia.

Copies of the draft alternatives are available from the Superintendent, Chattahoochee River National Recreation Area, P.O. Box 1396, Smyrna, Georgia 30081, (404) 952-6009.

Persons desiring to express their views orally at the meeting are not required to register in advance but should make their desire to comment known upon arrival at the meeting. Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentations made in behalf of an organization.

The moderator will also accept written comments at the meeting and written comments will be welcomed by the Superintendent until November 6, 1979.

Dated: September 12, 1979.

Neal G. Grise,

Acting Regional Director, Southeast Region.

[FR Doc. 79-28828 Filed 9-17-79; 8:45 am]

BILLING CODE 4310-70-M

Intent To Prepare a Draft Environmental Impact Statement and Wilderness Proposal and Public Meetings To Identify Significant Issues Related to the Proposal; Voyageurs National Park, Minnesota

Notice is hereby given that the National Park Service, in compliance with Pub. L. 91-190 (83 Stat. 853) and Pub. L. 91-661 (84 Stat. 1972), will prepare a draft environmental statement and wilderness proposal for Voyageurs National Park. Public Law 91-661, which provides for the establishment of Voyageurs National Park, requires that all areas within the Park be evaluated for wilderness suitability or unsuitability. The evaluation will be conducted in accordance with the Wilderness Act of 1964 (Pub. L. 88-577). Alternatives to be considered will range from no wilderness to maximum wilderness.

Notice is also given that a series of public meetings will be conducted in the region of Voyageurs National Park for the purpose of determining the scope of issues to be addressed and for identifying the issues related to the proposed action. The dates and places of these meetings are as follows. All dates are in 1979.

September 26, 2:00-5:00 p.m. and 7:00-10:00 p.m., Library, Rainy River Community College, U.S. Highway 71, International Falls, Minnesota.

September 27, 2:00-5:00 p.m., Kabetogama Community Hall, St. Louis County Highway 122, Kabetogama Lake, Minnesota.

September 28, 2:00-5:00 p.m., Fellowship Hall, Crane Lake Chapel, Crane Lake, Minnesota.

October 2, 7:00-10:00 p.m., Eveleth Area Vocational Technical Institute, U.S. Highway 53, Eveleth, Minnesota.

October 3, 7:00-10:00 p.m., Radisson Duluth Hotel, 505 West Superior Street, Duluth, Minnesota.

October 4, 7:00-10:00 p.m., Holiday Inn, State Capitol, 161 St. Anthony Avenue, St. Paul, Minnesota.

Written suggestions and comments on issues applicable to the development of the proposal referred to in the first paragraph above will be received until November 5, 1979, and should be mailed to the Superintendent, Voyageurs National Park, P.O. Box 50, International Falls, Minnesota 56649. The Superintendent will also be available at the public meetings to respond to questions about the wilderness proposal and the environmental impact statement.

Dated: September 11, 1979.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 79-28894 Filed 9-17-79; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware Citizens Advisory Council

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Upper Delaware Citizens Advisory Council will be held at 7:00 p.m., October 26, 1979, at the Tusten Town Hall, Narrowsburg, New York. The Advisory Council was established by Public Law 95-625, section 704(f) to encourage maximum public involvement in the development and implementation of plans and programs authorized by the Act and section noted above. The Council is to meet and report to the Delaware River Basin Commission, to the Secretary of the Interior and to the Governors of New York and

Pennsylvania on the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region.

The members of the Council are:

Herbert J. Fabricant, Chairman, Goshen, New York
George H. Frosch, Hancock, New York
A. Joy Rowe, Hancock, New York
Karen Ridley, Sparrowbush, New York
Jimmy McGough, Eldred, New York
Harry Thielhelm, Lackawaxen, Pennsylvania
Robert S. VanArsdale, Shohola, Pennsylvania
Douglas Hay, Mill Rift, Pennsylvania
Clinton P. Dennis, Equinunk, Pennsylvania
LaRue Elmore, Damascus, Pennsylvania
Daniel Gales, Hancock, New York
Carl Grund, Narrowsburg, New York
Arthur J. Aikens, Delancy, New York
David A. Pardy, Goshen, New York
Matthew J. Freda, Galilee, Pennsylvania
Frank A. Jones, Dingmans Ferry, Pennsylvania
David J. Allee, Ithaca, New York

The matters to be discussed at this meeting include:

1. Implementation of section 704 of the National Parks and Recreation Act of 1978.

2. New business.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first served basis. Any member of the public may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact David A. Kimball, Chief Planner, Mid-Atlantic Region, National Park Service, 143 South Third Street, Philadelphia, Pennsylvania 19106, area code (215) 597–9655.

Minutes of the meeting will be available for inspection four weeks after the meeting at the Mid-Atlantic Regional Office.

Dated: September 11, 1979.

Richard L. Stanton,

Regional Director, Mid-Atlantic Region.

[FR Doc. 79-28918 Filed 9-17-79; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

U.S. v. Republic Steel Corp.; Consent Decree in Action To Enforce Compliance With Provisions of the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States of America* v. *Republic Steel Corporation* has been lodged with the United States District Court for the Northern District of Ohio, Eastern Division. The decree imposes on defendant Republic Steel Corporation certain requirements and compliance dates with respect to the operation of its sinter plant and coke batteries in Cleveland, Ohio. The decree also provides for the payment of a $7,500 per day fine if the final compliance dates are not met.

The Department of Justice will receive on or before October 18, 1979, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States of America* v. *Republic Steel Corporation*, D.J. Ref. 90–5–1–1–1056.

The consent decree may be examined at the office of the United States Attorney, Northern District of Ohio, Eastern Division, Room 400, United States Courthouse, Cleveland, Ohio 44114; at the Region V office of the Environmental Protection Agency, 230 S. Dearborn Street, Chicago, Illinois 60604; and the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

James W. Moorman,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-28825 Filed 9-17-79; 8:45 am]

BILLING CODE 4410-01-M

[AAG/A Order No. 29-79]

Privacy Act of 1974; Deletion of Systems of Records

Notices previously published in the **Federal Register** pursuant to the Privacy Act relating to six of the systems of records maintained by the Criminal Division are being rescinded as part of a Division reorganization that occurred on February 27, 1979.

The following systems of records have been destroyed with the authority of the Archivist of the United States:

1. JUSTICE/CRM–010, Organized Crime and Racketeering Information System, 42 FR 53339 (September 30, 1977);

2. JUSTICE/CRM–011, Organized Crime and Racketeering Section File Check Out System, 42 FR 53340 (September 30, 1977);

3. JUSTICE/CRM–013, Organized Crime Information Management System, 42 FR 53342 (September 30, 1977);

4. JUSTICE/CRM–015, Organized Crime and Racketeering Section Intelligence and Special Services Unit Visitor Pass System, 42 FR 53343 (September 30, 1977);

All four of the above systems were destroyed in conjunction with the abolition of the Organized Crime and Racketeering Section's Intelligence Unit as part of the Criminal Division's reorganization. The Archivist's consent for abolition of system JUSTICE/CRM–010 was dated September 14, 1978; the Archivist's consent for abolition of systems JUSTICE/CRM–011, 013 and 015 was dated May 9, 1979.

The following systems of records have been merged into other systems of records;

1. JUSTICE/CRM–009, Narcotic and Dangerous Drug Witness Security Program File, 42 FR 53338 (September 30, 1977); and

2. JUSTICE/CRM–020, Requests to the Attorney General For Approval of Applications to Federal Judges For Electronic Interceptions in Narcotic and Dangerous Drug Cases, 42 FR 53346 (September 30, 1977).

Due to the recent reorganization of the Criminal Division, each of these two systems will be merged into separate single systems. Thus system JUSTICE/CRM–009, Narcotic and Dangerous Drug Witness Security Program File will be discontinued and merged into system JUSTICE/CRM–002, Criminal Division Witness Security File; and system JUSTICE/CRM–020, Requests to the Attorney General For Approval of Applications to Federal Judges For Electronic Interceptions in Narcotic and Dangerous Drug Cases will be discontinued and merged into system JUSTICE/CRM–019, Requests to the Attorney General For Approval of Applications to Federal Judges For Electronic Interceptions. A system notice for existing JUSTICE/CRM–002 and JUSTICE/CRM–019 was published in 42 FR 53333 and 53346, respectively, on Friday, September 30, 1977 pursuant to 5 U.S.C. 552a(e). There is no change in name or text planned for either system as the language used in each is sufficient to describe the merged systems. Employees currently having access to each individual system have equal access to the parallel system; thus there will be no increased access by Government employees to the merged systems.

Those portions of § 16.91 of Title 28 of the Code of Federal Regulations which exempted JUSTICE/CRM–009, JUSTICE/CRM–010, JUSTICE/CRM–011

and JUSTICE/CRM–020 are also being revoked by a separate order on rulemaking being published in today's **Federal Register.**

Dated: September 5, 1979.

William D. Van Stavoren,

Assistant Attorney General for Administration.

[FR Doc. 79–28965 Filed 9–17–79; 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 meeting of the National Minority Advisory Council on Criminal Justice (NMACCJ), LEAA.

The National Miniority Advisory Council will hold its regularly scheduled quarterly meeting on September 21–22, 1979. The two-day meeting will be held at the Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., 13th floor conference room, Washington, DC. The meetings are scheduled to run from 9:00 a.m. until 12:00 noon on Friday, the 21st and from 9:00 a.m. until 5:00 p.m. on Saturday the 22nd. The Council will spend the afternoon of Friday the 21st participating in a Criminal Justice "Braintrust" meeting on Captiol Hill sponsored by Congressman John Conyers, Jr.

The meetings will focus on the results of a recent public hearing on the resurgence of collective violence and harassment as they impact on the minority community, dates for future hearings, the Council's final report and results conference. The meetings are open to the public.

Anyone wishing additional information should contact Ms. Peggy E. Triplett, Project Monitor, 633 Indiana Avenue, NW., Washington, DC 20531. Telephone number 202/724–5937.

Due to a communication problem, publication of notice has been delayed. The Council has annually held its third quarterly meeting in conjunction with the Congressional Black Caucus' Annual Legislative Meetings. Members of the Council must be in Washington, DC., on September 21 and 22 and cannot change their schedules and incur additional expenses. Accordingly, it has been determined to go forward with the meeting.

Peggy E. Triplett,

Project Monitor, National Minority Advisory Council on Criminal Justice.

[FR Doc. 79–28850 Filed 9–17–79; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council Committees; Meetings and Agenda

The fall meetings of committees of the Business Research Advisory Council will be held on October 15 and 16 in room 4252, General Accounting Office Building, 441 G Street, N.W., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda of the meetings are as follows:

Monday, October 15

9:30 a.m.—Committee on Employment and Unemployment

1. Implementing the National Commission on Employment and Unemployment Statistics Recommendations
2. CPS Redesign

Monday, October 15

2:00 p.m.—Committee on Wages and Industrial Relations

1. Review of Work in Progress
2. Report on Work of Subcommittee on Long-Range Planning
3. Employment Cost Index

Tuesday, October 16

10:00 a.m.—Committee on Economic Growth

1. Status Report on fiscal year 1979 Publications
2. Briefing on Revisions in BLS Economic Growth Model
3. Discussion of Time Schedule for Next Set of Projections

Tuesday, October 16

1:30 p.m.—Committee on Price Indexes

1. Review of Recent Interest in CPI Housing.
2. Review of Continuing Consumer Expenditure Survey.
3. Description of Outlet Sample Updating in CPI.
4. Review of Family Budget Committee Work.
5. PPI Revision—Program Update.

The meetings are open to the public. It is suggested that persons planning to attend these meetings as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 523–1559.

Signed at Washington, D.C. this 11th day of September 1979.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 79–28915 Filed 9–17–79; 8:45 am]

BILLING CODE 4510–24–M

Business Research Advisory Council; Meeting

The regular fall meeting of the Business Research Advisory Council will be held at 9:30 a.m., October 17, 1979, at the New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C., Room N–4437 (A,B, & C). The agenda for the meeting is as follows:

1. Election of Officers.
2. Chairman's Opening Remarks.
3. Commissioner's Remarks.
4. Committee Reports.
   (a) Employment and Unemployment.
   (b) Wages and Industrial Relations.
   (c) Economic Growth.
   (d) Price Indexes.
5. Other Business.
6. Chairman's Closing Remarks.

This meeting is open to the public. It is suggested that persons planning to attend as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 523–1559.

Signed at Washington, D.C. this 11th day of September 1979.

Janet L. Norwood

Commissioner of Labor Statistics.

[FR Doc. 79–28914 Filed 9–17–79; 8:45 am]

BILLING CODE 4510–24–M

Mine Safety and Health Administration

[Docket No. M–79–137–C]

United States Steel Corporation; Petition for Modification of Application of Mandatory Safety Standard

United States Steel Corporation, 600 Grant Street, Pittsburgh, Pennsylvania 15230 has filed a petition to modify the application of 30 CFR 75.326 (entries) to its Dilworth Mine located in Rices Landing, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95–164.

The substance of the petition follows:

1. The standard states in part that air coursed through belt haulage entries shall not be used to ventilate active working areas.

2. At present, about 25% of the ventilating capacity of the petitioner's mine is given exclusively to the belt conveyor haulage system. This percentage will increase as development and expansion of the mine progresses.

3. The petitioner is mining a known gassy coal seam which liberates methane freely at the working face during normal mining operations. The standard severely restricts the volume of air available to dilute and carry away methane liberated during such operations.

4. As an alternative, the petitioner proposes the following:

(a) Three separate entries ventilated with intake air will be established and maintained for each working section: the designated intake escapeway, the trolley haulage entry, and the belt haulage entry. Each of these entries will be separated from the other.

(b) the velocity of air coursed through the belt haulage entries will be limited by erecting controlling devices at strategic locations. These devices will limit air velocity in the belt haulage entries to that necessary to provide an adequate oxygen supply and to insure methane concentrations of less than 1.0%.

(c) Automatic water spray systems will be installed along the belt haulage system at loading points, at transfer points, and at other locations where coal dust might be placed in suspension.

5. The petitioner believes that this alternative will achieve no less protection for its miners than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before October 18, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: September 6, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-28779 Filed 9-17-79; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

[TA-W-5720]

A. O. Smith Corp., Automotive Division, Milwaukee, Wis.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 10, 1979 in response to a worker petition received July 5, 1979 which was filed by the Smith Steel Workers on behalf of workers and former workers producing automobile frames, truck frames and automobile control arms at the Automotive Division of the Milwaukee, Wisconsin plant of the A.O. Smith Corporation.

The Notice of Investigation was published in the **Federal Register** on July 17, 1979 (44 FR 41595-6). No public hearing was requested and none was held.

The petitioner requested in a letter that the petition be withdrawn. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C. on September 7, 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-28898 Filed 9-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5775]

Airco Welding Products Division of Airco, Inc., Union, N.J., Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 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 26, 1979 in response to a worker petition received on July 25, 1979 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing cutting and welding torches, regulators, and electrical welding equipment of Airco welding Products, Division of Airco, Incorporated, Union, New Jersey. 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.

Workers at Airco Welding Products are identifiable by product line. On September 20, 1978 all workers employed in the Torch Department and all workers employed in the Primary Machining Department were certified eligible to apply for adustment assistance. Workers in these departments are still eligible to apply for assistance under the previous certification (TA-W-3518). On the same date, workers employed in the Electrical Welding Equipment Department and in the Regulator Department were denied eligibility to apply for adjustment assistance.

In July 1978 British Oxygen Company purchased Airco, Incorporated—beginning a complete reorganization of the company. As a part of this reorganization, in March 1979 company officials stated that a consolidation effort would gradually begin. The Union, N.J. facility would cease all operations by the Spring 1980. All manufacturing would be transferred to either the existing Airco facility in Chicago, Illinois or to a new Airco facility in Virginia Beach, Virginia. Production and employment levels at these facilities are expected to be equal to or exceed those currently at the Union, New Jersey facility.

Conclusion

After careful review, I determine that all workers employed in the Regulator Department, the Electrical Welding Equipment Department, and the Shipping Department of Airco Welding Products, Division of Airco, Inc., Union, 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 7th day of September 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-28899 Filed 9-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5721]

Bishop Coal Co., McDowell County, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 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 investigaton was initiated on July 10, 1979 in response to a worker petition received on June 18, 1979 which was filed by the United Mine Workers of

America on behalf of workers and former workers producing metallurgical coal at Bishop Mining Company, Bishop, West Virginia. The investigation revealed that the correct company name is Bishop Coal Company and that the company address is Bishop, Virginia, although most of the mining complex is in McDowell County, 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.

Bishop Coal Company produces metallurgical coal which is used to produce coke. Coke is metallurgical coal at a later stage of production, and therefore, can be considered "like or directly competitive" with metallurgical coal.

The only customer of Bishop Coal purchasing imported coke decreased its purchases of imported coke in 1978 compared to 1977 and in the first seven months of 1979 compared to the same period in 1978. No customers reported purchases of imported metallurgical coal.

Conclusion

After careful review, I determine that all workers of Bishop Coal Company, McDowell County, 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 September 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-28800 Filed 9-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5197]

C. F. & I. Steel Corp., Rail Mill Department, Pueblo, Colo.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 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 April 10, 1979 in respond to a worker petition received on April 3, 1979 which was filed on behalf of workers and former workers producing steel rails seamless tubes, mining supplies, wire products, and nails at C. F. and I. Steel Corporation, Pueblo, Colorado. The investigation revealed that the petitioners intended to cover only workers in the Rail Mill Department of C. F. and I. Steel Corporation, Pueblo, Colorado. 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 production and employment with respect to steel rails can be attributed to the modernization program pursued by C. F. and I. in the last 2–3 years.

The Department surveyed the customers of C. F. and I. for steel rail. The survey revealed that the only customers which decreased purchases from C. F. and I. and increased import purchases did so because C. F. and I. was unable to supply the customers total tonnage requirements. These customers actually increased orders to C. F. and I. from 1977 to 1978 but received fewer shipments during that time period. This inability to supply customer requirements is attributable to C. F. and I. Steel Corporation's modernization of its Rail Mill. The modernization program has the intended purpose of increasing productive capacity. However, due to implementation problems, productive capacity declined in 1978 and 1979.

Evidence developed during the course of the investigation revealed that the decline in billet round employment in the fourth quarter of 1978 can be attributed to maintenance repairs and to the modernization of the Rail Mill.

The blooming mill within the Rail Mill Department produces billet rounds for carbon steel pipe and tubing as well as billets for rail production. These billet rounds are sent to the seamless tube mill of the Pueblo plant where they are rolled into seamless pipe and tubing. Billet round production has been a significant percentage of total rail mill activity in each year from 1975 to 1978 and in the January–May 1979 period.

Employment of workers in the Rail Mill Department engaged in producing billet rounds for carbon steel pipe and tubing increased from 1977 to 1978 and in the first six months of 1979 compared to the first six months of 1978. Employment increased in each quarter from the first quarter of 1978 through the second quarter of 1979 compared to the same quarter of the previous year. Compared to the previsous quarter, employment increased in the first, second and third quarters of 1978 and the first and second quarters of 1979. There were no significant declines in average weekly hours worked in 1978 compared to 1977 or in the first six months of 1979 compared to the first six months of 1978. The decline in employment in the fourth quarter of 1978 compared to the previous quarter resulted from the shutdown for maintenance repairs of certain equipment in the seamless tube mill and from construction activities related to the modernization of the Rail Mill.

Conclusion

After careful review, I determine that all workers of the Rail Mill Department of C. F. and I. Steel Corporation, Pueblo, Colorado 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 10th day of September 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-28801 Filed 9-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-A-5477]

Chrysler Corp., Missouri Truck Assembly Plant, Fenton, MO.; Negative Determination Regarding Application for Reconsideration

By an application dated August 30, 1979, the United Auto Workers (UAW) 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 producing vans and wagons at Chrysler Corporation's Missouri Truck Assembly Plant at Fenton, Missouri. The determination was published in the **Federal Register** on August 14, 1979, (44 FR 47630).

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 determination.

The union claims that increased imports of compacts and subcompacts has led to a consumer shift away from vans.

The Department's review revealed that workers at Chrysler Corporation's Missouri Truck Assembley Plant at Fenton, Missouri were denied certification because the dominant cause of cutbacks in production and employment at the Fenton, Missouri plant was the collapse of the domestic van and wagon market in the second quarter of 1979. The collapse of this market was the result of rapidly increasing gasoline prices and the uncertainty regarding the future availability of fuel. Further, Chrysler's imports of vans and wagons from Canada decreased in the first half of 1979 compared to the same period in 1978. Imports of vans and wagons from Canada by other American automobile manufacturers have remained relatively stable in proportion to the van and wagon market. The only significant decline in employment at the Fenton, Missouri 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 the uncertainty regarding its availability.

The Department sees no validity in the union's claim that increased imports of compacts and subcompacts has led to a consumer shift away from vans. The Department of Labor does not consider subcompacts and compacts like or directly competitive with vans and wagons. Vans and wagons are made in truck plants and have their own market and are used for different and additional purposes than are subcompacts and compacts.

The dominant cause of the separation of workers and their decline in production and sales of vans and wagons was the collapse of the domestic van and wagon market in the second quarter of 1979 caused by the rapidly increasing price of gasoline and its uncertain availability.

Conclusion

After review of the application and the investigation 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 10th day of September 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-28902 Filed 9-17-79; 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 September 28, 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 September 28, 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 11th day of September 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Carthage Shirt Corp. (workers)	Carthage, Tenn	9/4/79	8/28/79	TA-W-6,005	Men's shirts and ladies' blouses.
Fred Engelman Co. (workers)	New York, N.Y.	9/4/79	9/1/79	TA-W-6,006	Ladies' sportwear.
Ideal Outerwear Company, Inc. (workers)	East Newark, N.J.	9/4/79	8/22/79	TA-W-6,007	Men's leather and suede coats.
Milford Shoe Co. (workers)	Milford, Mass	9/4/79	8/27/79	TA-W-6,008	Men's shoes.
Rosato Clothing Manufacturing, Inc. (company).	Tupelo, Miss	9/6/79	8/28/79	TA-W-6,009	Men's sportcoats and ladies' jackets.
Stein-Henry Co. (workers)	Philadelphia, Pa	9/6/79	8/31/79	TA-W-6,010	Wholesale meat; also ground beef.
Sugarloaf Mining Company (UMWA)	Fort Smith, Ark	9/6/79	9/4/79	TA-W-6,011	Metallurgical coal.
Triangle Motor Sales, Inc. (workers)	North Berwick, Maine	9/5/79	8/30/79	TA-W-6,012	Car dealership.
Wisconsin Screw Products Corp. (workers)	Oshkosh, Wis	9/5/79	8/29/79	TA-W-6,013	Screws and bolts.
Woodstock Shoe Co. (workers)	Woodstock, Va	9/6/79	9/4/79	TA-W-6,014	Youths shoes.

[FR Doc. 79-28903 Filed 9-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5734]

Cowden Manufacturing Co., Stanford, Ky.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 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 11, 1979 in response to a worker petition received on July 9, 1979 which was filed by the International Brotherhood of Teamsters, Warehousemen and Chauffeurs of America on behalf of workers and former workers producing jeans at the Stanford, Kentucky plant of Cowden Manufacturing Company. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' woven cotton and man-made jeans and dungarees increased both adsolutely and relative to domestic production from 1977 to 1978, then decreased absolutely during the period January–June 1979 compared to the same period in 1978.

U.S. imports of men's and boys' dress and sport trousers and shorts increased absolutely and relative to domestic production from 1977 to 1978, then decreased absolutely during the first half of 1979 compared to the first half of 1978.

Major customers of Cowden Manufacturing Company who were surveyed indicated they reduced purchases of blue jeans and shorts from Cowden Manufacturing during 1978 compared to 1977 while increasing purchases of blue jeans from foreign sources during that period. Total sales of men's, women's and children's jeans, slacks and shorts by Cowden Manufacturing Company increased during the period January–July 1979 compared to the same 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 men's and boy's blue jeans, slacks and shorts produced at the Stanford, Kentucky plant of Cowden Manufacturing Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Stanford, Kentucky plant of Cowden Manufacturing Company who became totally or partially separated from employment on or after June 11, 1978 and before April 1, 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 7th day of September 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-28904 Filed 9-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5722]

Country Club Casuals, Inc., Miami, Fla.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 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 5, 1979 which was filed on behalf of workers and former workers producing ladies' dresses and sportswear at Country Club Casuals, Inc., Miami, Florida. 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 most customers of Country Club who were surveyed did not purchase imported women's sportwear. Surveyed customers that decreased purchases from Country Club did not increase purchases of imports.

Conclusion

After careful review, I determine that all workers of Country Club Casuals, Inc., Miami, Florida are denied eligibility to apply for adjustment assistance under Title 11, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of September 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-28905 Filed 9-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5753]

DuPont Puerto Rico, Inc., Manati, P.R.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 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 17, 1979 in response to a worker petition received on July 10, 1979 on behalf of workers and former workers producing dye products at DuPont Puerto Rico, Incorporated, Manati, Puerto Rico. 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 Office of Trade Adjustment Assistance conducted a survey of customers who purchased dyes from DuPont. None of the customers responding to the survey reduced purchases of dyes from DuPont and increased purchases of imported dyes in 1978 compared to 1977.

Customers who reduced purchases of dyes from DuPont and increased purchases of imported dyes in the first half of 1979 compared to the first half of 1978 did not represent a significant proportion of DuPont's dye sales in 1978.

Sales of dyes produced at the Manati plant increased in each month from July 1978 through August 1979 when

compared to the same months one year earlier.

United States exports of synthetic dyes exceeded imports in every year from 1974 through 1978 and in the first six months of 1979.

Conclusion

After careful review, I determine that all workers of DuPont Puerto Rico, Incorporated, Manati, 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 11th day of September 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-28906 Filed 9-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5869]

George Hallden Sons Co., Inc., Youngstown, Ohio; 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 August 17, 1969, in response to a worker petition received on August 15, 1979, which was filed on behalf of workers and former workers engaged in truck transporting of steel products at George Hallden Sons Trucking Company, Youngstown, Ohio. The investigation revealed that the legal title of the company is George Hallden Sons Company, Incorporated.

George Hallden Sons Company, Incorporated is engaged in providing the service of transporting iron and steel by truck.

Thus, workers of George Hallden Sons Company, Incorporated 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 George Hallden Sons 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.

George Hallden Sons Company, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in transporting iron and steel at George Hallden Sons Company, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by George Hallden Sons Company, Incorporated. All employee benefits are provided and maintained by George Hallden Sons Company, Incorporated. Workers are not, at any time, under employment or supervision by customers of George Hallden Sons Company, Incorporated. Thus, George Hallden Sons 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 George Hallden Sons Company, Incorporated, Youngstown Ohio 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 September 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-28907 Filed 9-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5683]

Gotham Shoe Manufacturing Co., Inc., Binghamton, N.Y.; 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 2, 1979, in response to a worker petition received on June 26, 1979, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing athletic shoes at Gotham Shoe Company, Binghamton, New York. The investigation revealed that the correct name of the company is Gotham Shoe Manufacturing Company, Incorporated. It is concluded that all of the requirements have been met.

U.S. imports of athletic footwear declined both absolutely and relative to domestic production in 1978 compared to 1977 and in the first quarter of 1979 compared to the like period of 1978; however, imports continued to constitute over 70 percent of the domestic market in this time period. The ratio of imports to domestic production has been over 200 percent from 1977 through March 1979.

Company imports of athletic shoes increased in 1978 compared to 1977 and in the first six months of 1979 compared to 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 athletic footwear produced at Gotham Shoe Manufacturing Company, 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 Gotham Shoe Manufacturing Company, Incorporated, Binghamton, New York who became totally or partially separated from employment on or after June 19, 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 11th day of September 1979.

James F. Taylor,

Director, Office of Administration and Planning.

[FR Doc. 79-28908 Filed 9-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5708]

ITT Harper, Cleveland, Ohio, and Morton Grove, Ill; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 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 2, 1979 which was filed on behalf of workers and former workers distributing fasteners for ITT Harper, Cleveland, Ohio. The investigation revealed that the petition was also filed on behalf of workers and former workers producing fasteners at ITT Harper, Morton Grove, Illinois. In addition to industrial fasteners, ITT Harper also produces extruded products. 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 of production.

A survey conducted by the Department revealed that customers surveyed who reduced purchases of industrial fasteners and extruded products from ITT Harper in 1978 and the first six months of 1979 relied principally upon other domestic suppliers to meet their requirements. Purchases of imported extruded products by surveyed customers amounted to an insignificant proportion of total purchases of extruded products by those customers during 1977, 1978 and the first six months of 1979.

Compared to the same quarter of the previous year, average employment by the Morton Grove manufacturing plant of ITT Harper increased during four consecutive quarters from the third quarter of 1978 through the second quarter of 1979.

Conclusion

After careful review, I determine that all workers of ITT Harper, Morton Grove, Illinois and Cleveland, Ohio 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 September 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-28909 Filed 9-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5362 and TA-W-5363]

Linda-Jo Shoe Co., Inc., L-J Outlet Store, Gainesville, Tex.; Linda-Jo Shoe Co., Inc., Forestburg, Tex.; Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Sections 221 and 223(a) of the Trade Act of 1974 (19 USC 2271, 2273), on July 2, 1979 the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of the Gainesville and Forestburg, Texas plants of the Linda-Jo Shoe Company, Incorporated.

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry regarding workers and former workers selling women's shoes at the L-J Outlet Store, Gainesville, Texas. The L-J Outlet Store was owned by persons who also owned a majority of the stock of the Linda-Jo Shoe Company, Incorporated. The L-J Outlet Store was located in the same building as the Gainesville, Texas plant of the Linda-Jo Shoe Company, Incorporated. The store was a retail outlet for the factory. Nearly all of the shoes sold by the L-J Outlet Store were manufactured by the Linda-Jo Shoe company, Incorporated. The closing of the Gainesville, Texas plant of the Linda-Jo Shoe Company, Incorporated on July 2, 1979 necessarily also involved closing the L-J Outlet Store.

Thus, it is appropriate to treat the factory and the retail outlet as a single firm for purposes of Section 222 of the Trade Act of 1974 and 29 CFR 90.2.

Conclusion

Based on the additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following revised certification:

All workers of the Gainesville and Forestburg, Texas plants of the Linda-Jo Shoe Company, Incorporated who became totally or partially separated from employment on or after June 20, 1979 and all workers of the L-J Outlet Store, Gainesville, Texas who became totally or partially separated from employment on or after April 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 7th day of September 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-28910 Filed 9-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5728 and TA-W-5728-A]

Robert Reis & Co., New York, N.Y., Carolina, P.R.; 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 10, 1979 in response to a worker petition received on June 29, 1979 which was filed on behalf of salesmen and executives of the New York, New York headquarters of Robert Reis and Company. The investigation was expanded to include workers and former workers producing men's underwear at the Carolina, Puerto Rico plant of Robert Reis and Company (TA-W-5728-A). It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' underwear, knit and not knit, increased in quantity and increased at a share of domestic production from 1977 to 1978. U.S. imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased in quantity and increased as a proportion of domestic production from 1977 to 1978.

The investigation revealed that Robert Reis and Company produced men's underwear and knit shirts at its manufacturing plants in New York and Puerto Rico. Workers of the Waterford and Cambridge, New York plants of Robert Reis and Company (TA-W-2245 and 2246) were certified as eligible to apply for worker adjustment assistance on February 17, 1978. Robert Reis and Company ceased all operations on May 2, 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 men's underwear and knit shirts produced at Robert Reis and Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the New York, New York headquarters and of the Carolina, Puerto Rico plant of Robert Reis and Company who became totally or partially separated from employment on or after June 21, 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 day of September 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-28911 Filed 9-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5299]

Seal Tanning Co., Manchester, N.H.; Revised Determination on Reconsideration

On July 23, 1979 (44 FR 44304), the Department of Labor granted administrative reconsideration of the Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance which it had made on June 19, 1979 (44 FR 36516) pursuant to Section 223 of the Trade Act of 1974 for all workers at the Manchester, New Hampshire, plant of the Seal Tanning Company.

In its reconsideration, the Department reviewed its file on the Seal Tanning Company. The review and an additional customer survey conducted by the Department revealed that a substantial part of Seal Tanning's decline in finished leather sales was accounted for by customers who reduced purchases from Seal Tanning and increased their import purchases of finished leather. Further, the Manchester, New Hampshire, plant of the Seal Tanning Company ceased operations on June 30, 1979.

U.S. imports of tanned and finished cattlehides increased from 94.0 million square feet in 1977 to 123.7 million square feet in 1978 and from 25.1 million square feet in the first quarter of 1978 to 35.9 million square feet in the first quarter of 1979. The ratio of imports to domestic production increased from 8.7 percent in 1977 to 12.3 percent in 1978.

Conclusion

Based on additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following revised determination:

All workers at the Manchester, New Hampshire, plant of the Seal Tanning Company who became totally or partially separated from employment on or after April 20, 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 September 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-28912 Filed 9-17-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5714]

Stride Rite Manufacturing Corp., Hiatt Shoe Division, Lawrence, 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 July 5, 1979 in response to a worker petition received on July 2, 1979 which was filed on behalf of workers and former workers producing children's footwear at Stride Rite Manufacturing Corporation's Hiatt Shoe Division, located in Lawrence, Massachusetts. It is concluded that all of the requirements have been met.

U.S. imports of children's nonrubber footwear, except athletic, increased relative to domestic production in the first quarter of 1979 compared to the same period in 1978. The ratio of imports to domestic production increased from 80.9 percent in the first quarter of 1978 to 100.0 percent in the first quarter of 1979.

A Labor Department survey of customers who bought children's shoes and sandals from Stride Rite Manufacturing Corporation revealed that some of these customers reduced purchases from Stride Rite and increased purchases of imported children's shoes and sandals in 1978 compared to 1977 and in the first quarter of 1979 compared to the same 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 the children's shoes and sandals produced at Stride Rite Manufacturing Corporation's Hiatt Shoe Division, located in Lawrence, Massachusetts, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that division of the firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Stride Rite Manufacturing Corporation's Hiatt Shoe Division, located in Lawrence, Massachusetts, who became totally or partially separated from employment on or after November 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 September 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-28913 Filed 9-17-79; 8:45 am]

BILLING CODE 4510-28-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Three Mile Island, Unit 2 Accident, Implications re Nuclear Reactor Safeguards, Ad Hoc Subcommittee on the Three Power Plant Design; Meeting

The ACRS Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident—Implications Re Nuclear Power Plant Design, will hold a meeting on October 3, 1979 in Room 1046, 1717 H St., NW, Washington, DC 20555. Notice of this meeting was published on August 23, 1979.

In accordance with the procedures outlined in the **Federal Register** on October 4, 1978, (43 FR 45926), or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Wednesday, October 3, 1979; 8:30 a.m. until the conclusion of business.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendation to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions

with representative of the NRC Staff, the nuclear industry, various utilities, and their consultants, state and local officials, and other interested persons, regarding the implications of the Three Mile Island, Unit 2 Accident as they relate to the following:

8:30 a.m. to 12:00 noon

Reactors similar to the Diablo Canyon Nuclear Generating Station and the boiling-water reactors that are expected to receive operating licenses in the near-term (Zimmer and LaSalle).

Mr. Richard K. Major is the Designated Federal Employee for this portion of the meeting.

1:00 p.m. until the conclusion of business.

Reactors similar to Westinghouse Ice Condenser/Upper Head Injection (UHI) Plants that are expected to receive operating licenses in the near-term (Sequoyah and McGuire).

Dr. Richard P. Savio is the Designated Federal Employee for this portion of the meeting.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Public Law 92–463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics ot be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard K. Major (telephone 202/634–1414) or Dr. Richard P. Savio, (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Background information concerning items to be discussed at this meeting can be found in documents on file and available for public inspection at the NRC public Document Room, 1717 H Street, N.W., Washington, DC 20555; the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, PA 17126, regarding Three Mile Island, Unit 2; the Documents and Maps Department, Calfifornia Polytechnic State University Library, San Luis Obispo, CA 93407, regarding Diablo Canyon; the Illinois Valley Community College, Rural Route #1, Oglesby, IL 61348, regarding La Salle; the Public Library of Charlotte and Mecklenbury County, 310 North Tryon Street, Charlotte, NC 28202, regarding McGuire; the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, TN 37402, regarding Sequoyah; and the Clermont County Library, Third and Broadway Streets, Batavia, Ohio 45103, regarding Zimmer.

Dated: September 11, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-28745 Filed 9-17-79; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 81-495]

Detecto Scales, Inc.; Notice of Application and Opportunity for Hearing

September 4, 1979.

Notice is hereby given that Detecto Scales, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for an order granting Applicant an exemption from the provisions of Sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. On December 31, 1978 Applicant transferred all of its assets to United Industrial Syndicate, Inc., a New York corporation. These assets will become a newly-formed division of United. The only activity now engaged in by the Applicant is the continuation of the complete process of liquidation.

2. A description of the Plan and the consequences thereof was described in the Applicant's definitive proxy material, dated December 8, 1978, containing audited financial statements for the year ended December 31, 1977 and unaudited financial statements for the nine month period ended September 30, 1978.

3. The common stock of Detecto Scales, Inc. is registered with the Commission pursuant to Section 12(g) of the 1934 Act, but has not been actively traded since Applicant went bankrupt in 1976.

4. As of May 31, 1979, only 109,552 shares had not been exchanged. Applicant has fully funded the exchange of the remaining shares with the exchange agent, Chase Manhattan National Bank, N.A.

In the absence of an exemption, Applicant is required to file reports pursuant to Sections 13 and 15(d) of the 1934 Act and the rules and regulations thereunder for the fiscal year ended December 31, 1978 and for the fiscal year ending December 31, 1979. Applicant believes that its request for an order exempting it from the reporting provisions of Sections 13 and 15(d) of the 1934 Act is appropriate in view of the fact that the Applicant believes that the time, effort and expense involved in the preparation of additional periodic reports will be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, NW., Washington, D.C.

Notice is further given that any interested person not later than October 1, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time, after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28845 Filed 9-17-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-509]

Friendly Ice Cream Corp.; Notice of Application and Opportunity for Hearing

September 4, 1979.

Notice is hereby given that Friendly Ice Cream Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting Applicant an exemption from the provisions of Sections 13 and 15(d) of the 1934 Act.

The applicant states, in part:

1. On April 9, 1979, Applicant merged with and became a wholly-owned subsidiary of Hershey Foods Corporation. As a result of this merger, Applicant no longer has any publicly owned common stock.

2. The merger transaction was reported in detail in Applicant's merger proxy statement dated March 9, 1979.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, interested persons are referred to said applicant which is on file in the office of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that not later than October 1, 1979 any interested person may submit to the Commission in writing his views of any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication of request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28846 Filed 9-17-79; 8:45 am]

BILLING CODE 8010-01-M

[File Nos. 1-7229; 1-5219; 1-7374; 1-6807]

Jones & Laughlin Industries, Inc.; Notice of Application to Withdraw From Listing and Registration

September 13, 1979.

In the matter of Jones & Laughlin Industries, Inc., 6¾% Subordinated Debentures due April 1, 1994, 6½% Subordinated Debentures due September 15, 1988, File No. 1-7229; Vought Corporation, 6¾% Subordinated Debentures due August 15, 1988, File No. 1-5219; Wilson Foods Corporation, 9½% Sinking Fund Debentures due January 1, 1984, 8⅜% Sinking Fund Debentures due June 1, 1997, 7⅞% Sinking Fund Debentures due March 1, 1997, File No. 1-7374; and Family Dollar Stores, Inc., Common Stock, Par Value $.10, File No. 1-6807.

The above named issuers have filed applications with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the American Stock Exchange, Inc., ("Amex").

The reasons alleged in the applications for withdrawing these securities from listing and registration include the following:

1. The subordinated debentures of Jones and Laughlin Industries, Inc. ("Jones") were listed for trading July 1, 1973 and October 1, 1969 respectively, on the Amex.

2. On September 20, 1968 the subordinated debentures of Vought Corporation ("Vought") were listed for trading on the Amex.

3. On January 1, 1974 the sinking fund debentures of Wilson Foods Corporation ("Wilson") were listed for trading on the Amex.

4. On December 23, 1971 the common stock of Family Dollar Stores, Inc. ("Family") were listed for trading on the Amex.

5. The subject issues of Jones, Vought and Wilson were also listed for trading on the New York Stock Exchange, Inc. ("NYSE") on July 31, 1979.

6. On August 14, 1979 Family was listed for trading on the NYSE.

7. Simultaneously, the issues were suspended from trading on the Amex.

8. The companies considered (a) the direct and indirect costs and expenses attendant to maintaining the dual listings, and (b) believe dual listings would fragment the markets for their respective debentures and common stock.

These applications relate solely to the companies' debentures and common stock withdrawals from listing and registration on the Amex and shall have no effect upon the continued NYSE listings of such debentures and common stock. The Amex has posed no objections in these matters.

Any interested person may, on or before October 13, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the individual applications have been made in accordance with the Amex rules and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting each application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28844 Filed 9-17-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 10865; (812-4353)]

Money Market Trust; Notice of Filing of Application for Order Pursuant to Section 6(c) of the Act Granting Exemptions From the Provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 Thereunder

September 11, 1979.

Notice is hereby given that Money Market Trust ("Applicant"), 421 Seventh Avenue, Pittsburgh, Pennsylvania 15219, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management-investment company, filed an application on July 31, 1978, and amendments thereto on August 7, 1979, and September 4, 1979, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(4) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicant's assets to be valued at amortized cost. 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 states that it s a "money market" fund organized as a Massachusetts Business Trust, and that Federated Cash Management Corp., a wholly-owned subsidiary of Federated Investors, Inc., serves as its investment adviser. Applicant further states that it is designed as an investment vehicle for temporary cash reserves and that its shares are currently offered for sale to institutional investors. According to the application, Applicant is designed to provide stability of principal and current income consistent with stability of principal. Applicant states that it invests in a variety of money market instruments.

As here pertinent, section 2(a)(41) of the Act defines value to mean: (i) with respect to securities for which market quotations are readily available, the market value of such securities, and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefore 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 to sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicant states that two features are necessary in order for it to attract investments from institutional investors: (1) certainty of stability of principal and (2) steady flow of predictable and competitive investment income. Applicant asserts that by maintaining a portfolio of high quality, short-term money market instruments valued at amortized cost it can provide these features to institutional investors. Applicant represents that its trustees have properly determined in good faith under the provisions of the Act to value the portfolio of Applicant by use of the amortized cost method and that this method is in the best interests of the sharholders of Applicant. Applicant further represents that (1) its trustees have determined in good faith, in light of the characteristics of Applicant, that the amortized cost method of valuation of portfolio instruments is appropriate and preferable to the use of a market based valuation method, and (2) its trustees have further determined to continuously monitor valuations indicated by methods other than amortized cost so that any necessary changes in the valuation method may be made to assure that the valuation method being used is a fair approximation of fair value in view of all pertinent factors. Accordingly, Applicant requests exemptions from section 2(a)(41) of the Act, and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit its assets to be valued as set forth in the application, as described above, whether or not market quotations are available.

Section 6(c) of the Act provides, in part, that the Commission may, 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 the rules 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 exemptions it requests satisfy these standards in view of its management policies and the conditions hereinafter set forth.

Applicant consents to the imposition of the following conditions in an order granting the relief it requests:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the trustees undertake—as a particular responsibility within the overall duty of care owed to shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stablize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the trustees shall be the following:

(a) Review by the trustees, as they deem appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the trustees will promptly consider what action, if any, should be initiated by the trustees.

(c) Where the trustees believe the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, they shall take such action as they deem appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily assessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1. above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the trustees' considerations and actions taken in connection with the discharge of their responsibilities, as set forth above, to be included in the minutes of the trustees' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the commission in accordance with section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments which the trustees determine present minimal credit risks, and which are of "high

[1] To fullfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the trustees in the exercise of their discretion to be appropriate indicators of value which may include, inter alia, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

quality" as determind by any major rating service or, in the case of any instrument that is not so rated, of comparable quality as determined by the trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than October 1, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–28852 Filed 9–17–79; 8:45 am]

BILLING CODE 8010–10–M

[Release No. 34–16179; File No. SR–MSRB–79–10]

Municipal Securities Rulemaking Board; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 6, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission the proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The Municipal Securities Rulemaking Board (the "Board") is filing a proposed amendment to rule A–14 (hereinafter sometimes referred to as the "proposed rule change"). The text of the proposed rule change is as follows: [1]Rule A–14. Annual Fee

[(a)] In addition to the fee prescribed by rule A–12 of the Board, each municipal securities broker and municipal securities dealer shall pay an annual fee to the Board of $100, with respect to each calendar year commencing with the calendar year 1977. Such fee must be received at the office of the Board in Washington, D.C. no later than February 15 in the year following the year with respect to which payment is made, and must be accompanied by a written statement setting forth the name, address and Commission registration number of the municipal securities broker or municipal securities dealer on whose behalf the fee is paid.

[(b) *Credit for Underwriting Assessments.* A municipal securities broker or municipal securities dealer may credit against the fee otherwise payable for a calendar year pursuant to paragraph (a) of this rule, the aggregate amount of assessments paid during such calendar year on behalf of such municipal securities broker or municipal securities dealer pursuant to Board rule A–13, provided that a written statement is furnished to the Board by such municipal securities broker or municipal securities dealer certifiying that assessments required by rule A–13 totalling at least $100 or a lesser specified amount were paid to the Board on behalf of such municipal securities broker or municipal securities dealer during such calendar year.]

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

Purpose of Proposed Rule Change

Rule A–14 levies a fee of $100 on municipal securities brokers and municipal securities dealers for each calendar year, payable to the Board by February 15 of the succeeding year. The rule allows municipal securities brokers and municipal securities dealers a credit against such annual fee for any underwriting assessments paid pursuant to rule A–13.

The Board decided to delete the credit provisions because of the accounting problems which it has presented for the Board. As a consequence of this provision, it has been extremely difficult to calculate with precision the amount of annual fees payable to the Board for a given year.

The deletion of the credit provisions will eliminate this problem and facilitate the preparation of interim and annual financial statements, as well as budgetary documents. It will also permit the Board to account for this income on an accrual basis, as recommended by the Board's independent accountants.

Basis under the Act for Proposed Rule Change

The Board has adopted the proposed rule change pursuant to sections 15B(b)(2)(I) and 15B(b)(2)(J) of the Securities Exchange Act of 1934, as amended (the "Act"). Section 15B(b)(2)(J) of the Act authorizes and directs the Board to adopt rules providing for the assessment of municipal securities brokers and municipal securities dealers to defray the costs and expenses of operating and administering the Board. Section 15B(b)(2)(I) authorizes and directs the Board to adopt rules providing for the operation and administration of the Board.

Comments Received From Members, Participants or Others on Proposed Rule Change

Comments were not solicited or received on the proposed rule change.

Burden on Competition

Although the Board recognizes that the elimination of the credit provision may affect certain municipal securities professionals more than others, the Board believes that such a result is necessary and appropriate in view of the significant administrative and accounting benefits to be realized as a consequence of the proposed rule change. The Board further believes that the proposed rule change will not impose any significant burden on the affected municipal securities professionals.

The foregoing rule change has become effective, pursuant to section 19(b)(3)(A) of the Act. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof

[1] [Brackets] indicate deletions.

with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before October 9, 1979.

For the Commission by the Division of Market Regulation, pursuant to the delegated authority.

September 7, 1979.

George A. Fitzsimmons,

Secretary.

[FR Doc. 28642 Filed 9-17-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 6122; (18-13)]

Price Waterhouse & Co. Retirement Income Plan for Partners and Principals; Notice of Filing of Application for an Order Pursuant to Section 3(a)(2) of the Securities Act of 1933 Exempting From the Provisions of Section 5 of the Act Interests and Participations in the Price Waterhouse & Co. Retirement Income Plan for Partners and Principals

September 13, 1979

Notice is hereby given that Price Waterhouse & Co. ("Applicant"), 1251 Avenue of the Americas, New York, NY 10020, a public accounting firm organized as a partnership under the laws of the State of New York, has, by letters dated September 29, 1977, and August 7, 1979, applied for an exemption from the registration requirements of the Securities Act of 1933 ("Act") for interests or participations issued in connection with the Price Waterhouse & Co. Retirement Income Plan for Partners and Principals ("Plan"). All interested persons are referred to those documents, which are on file with the Commission, for the facts and representations contained therein, which are summarized below.

I. Introduction

The Plan covers Applicant's partners and principals aged 25 or over. As of February 1, 1978, some 380 partners and 20 principals were eligible to participate in the Plan. In addition, the Plan covers about 10 partners of an affiliated partnership, which has adopted the Plan. "Principals" are persons employed by Applicant who do not hold certificates or licenses to practice accounting but who are deemed qualified for membership in the partnership.

The Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case, Applicant's partners and principals) who are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954 ("Code") and, therefore, is excepted from the exemption provided by section 3(a)(2) of the Act for interests or participations in employee benefit plans of certain employers. Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. Description and Administration of the Plan

The Plan, which became effective as of January 1, 1977, is funded through a trust maintained under a trust agreement ("Trust Agreement") between Applicant and the Bank of New York, as trustee. The Internal Revenue Service has issued a ruling to the effect that the Plan is a qualified plan under section 401(a) of the Code. The Plan is subject to the fiduciary standards and the full reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974.

Applicant states that it makes annual contributions to the Plan on behalf of all participants. Participants may also make voluntary contributions of not more than 10 percent of their share of partnership net income, with certain limitations. The investment and reinvestment of Plan assets are under the exclusive management of the bank trustees. Under the Trust Agreement, the assets are segregated into two funds: a fixed income fund, which consists primarily of bonds, notes, debentures and other evidences of indebtedness; and an Equity Fund, which consists primarily of common and preferred stocks. Applicant states that none of such assets are permitted to be commingled in any collective trust with assets of other plans.

III. Discussion

Applicant states that in excluding plans in which self-employed persons are participants from the exemption from registration afforded by section 3(a)(2) of the Act, Congress appears to have intended to prevent the sale without registration of prepackaged plans offered by sponsoring financial institutions to self-employed persons who might not be sophisticated in the securities field or who might be unable adequately to protect their interests and those of their participating employees.

Applicant submits that the Plan covers partners, and principals of a single employer and of a closely affiliated smaller partnership. Thus, it does not present the risks associated with the sale of interests in multi-employer plans by sponsoring financial institutions with which Congress was primarily concerned. Applicant further submits that Plan participants are, by virtue of their professional backgrounds, far more sophisticated in the securities field than the average employee of an industrial corporation for which an automatic exemption would be available under section 3(a)(2) of the Act.

Also, Applicant states that it is engaged in furnishing professional services of a type which necessarily involve financially sophisticated and complex matters and is therefore able to represent adequately its interests and those of Plan participants.

Applicant represents that it will not in any way promote or solicit voluntary contributions. Finally, Applicant will exercise substantial administrative responsibilities with respect to the Plan.

Applicant concludes that for the foregoing reasons granting the requested exemption would be 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 October 5, 1979, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should 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 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. An order disposing of the application will be issued as of course following October 5, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28864 Filed 9-17-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 6124; (18-58)]

Salomon Brothers Profit Sharing Plan; Notice of Filing of Application Pursuant to Section 3(a)(2) of the Securities Act of 1933 for an Order Modifying an Order Exempting From the Provisions of Section 5 of the Act Interests or Participations in the Salomon Brothers Profit Sharing Plan

September 11, 1979.

Notice is hereby given that Salomon Brothers, an investment banking firm and registered broker-dealer organized as a New York limited partnership ("Applicant") One New York Plaza, New York, NY 10004, on July 24, 1979 filed an application under section 3(a)(2) of the Securities Act of 1933 (the "Act") for an order modifying an order set forth in Securities Act Release No. 5852 (August 10, 1977) declaring that interests or participations in the Salomon Brothers Profit Sharing Plan (the "Plan") are exempt from the provisions of section 5 of the Act. All interested persons are referred to the application on file with the Commission for the facts and representations contained therein, which are summarized below.

I. Introduction

Applicant states that the Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case Applicant's general partners) who are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954 ("Code"), and therefore is excepted from the exemption from the registration provisions of the Act provided by section 3(a)(2). Section 3(a)(2) also provides, however, that the Commission may exempt from the provisions of section 5 of the Act any interest or participation issued in connection with a pension or profit sharing plan which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. In Securities Act Release No. 5852 (August 10, 1977), the Commission ordered that, pursuant to section 3(a)(2) of the Securities Act of 1933, interests or participation issued in connection with the Plan shall not be subject to the requirements of section 5 of the Act, provided that the Internal Revenue Service issues a favorable ruling with respect to the tax-qualified status of the Plan. Such a ruling was issued.

II. Modifications Requested

Applicant now requests certain modifications to the Commission's order to (a) make available under the Plan to participants additional investment alternatives, including the alternative of investing Plan assets in an open-ended, no-load, registered investment company with respect to which Applicant is administrator and distributor, (b) permit the Plan to accept rollover contributions directly or indirectly from other tax-exempt plans in accordance with applicable Internal Revenue Code requirements and (c) revise Applicant's undertaking made in connection with the prior application to require that participants be provided a copy of the Plan, without charge, only upon request.

In connection with the Plan's investment in the registered investment company, the Applicant has undertaken to pay to the Plan an amount equal to the fee it receives from the investment company attributable to the Plan's investment therein. Applicant states that the transaction is exempted from the prohibited transaction rules of the Employee Retirement Income Security Act of 1974 ("ERISA") and the Internal Revenue Code by Prohibited Transaction Exemption 77-3. Applicant also references the restrictions on dealings between the Applicant and the investment company imposed by sesction 17 of the Investment Company Act of 1940. Applicant submits that these restrictions, together with the requirements of Prohibited Transaction Exemption No. 77-3 and ERISA and Applicant's agreement to pay to the plan an amount equal to the fee earned by Applicant from the investment company attributable to assets of the Plan invested therein, satisfy any concern that may arise regarding applicant's relationship to the investment company. Applicant's agreement to pay the allocable portion of its fee to the Plan is contingent upon the Division of Investment Management concluding that it would not recommend enforcement action by the Commission under section 22(d) of the Investment Company Act of 1940 if Applicant proceeds as planned.

III. Applicant's Arguments

Applicant reiterates the arguments made in connection with the previous order granted by the Commission. Applicant contends that, although the Plan, because Applicant's partners participate in it, literally falls within the Keogh plan exception of the section 3(a)(2) exemption, the legislative history of section 3(a)(2) does not suggest any intent on the part of Congress to require that interests in single-employer Keogh plans be registered under the Act. Rather, Congress excepted interests issued in connection with Keogh plans from the section 3(a)(2) exemption primarily out of concern over interests or participations in commingled or collective Keogh funds which might be marketed by sponsoring financial institutions to self-employed persons unsophisticated in the securities field. Applicant contends that the characteristics of the Plan are essentially typical of plans maintained by many single corporate employers for which section 3(a)(2) provides an exemption, and that the concerns which resulted in inapplicability of section 3(a)(2) to Keogh plans generally do not require registration of interests in Applicant's plan.

Applicant further contends that, if the Plan were amended, as permitted by the Internal Revenue Code, to exclude Applicant's partners, or if Applicant were a corporation, the Keogh plan exception to the section 3(a)(2) exemption would not apply. Applicant asserts that the Plan is not a master or prototype plan marketed to the public by a sponsoring financial institution, the Plan assets are not invested in any such master or prototype plan and that the Plan, like the similar plans of large corporations, has been specifically tailored to meet Applicant's own particular requirements. Applicant argues, therefore, that to treat the Plan differently from a corporate plan merely because Applicant is organized as a partnership would exalt form over substance. Applicant contends that the Commission's exemptive authority under section 3(a)(2) appears designed to permit the Commission to exempt plans like Applicant's where a substantial employer that is similar to a large corporation in all respects except

for its form of organization, and which is sophisticated in complex financial and securities matters, creates and designs a plan for its employees and partners.

Finally, Applicant states that the disclosures required by ERISA and other disclosures to be made to Plan participants are additional grounds for granting the requested exemption.

Applicant concludes that, under the circumstances, granting the requested exemptive order would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 1, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application, accompanied by a statement of the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following October 1, 1979 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 notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28862 Filed 9-17-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel No. 10863; (812-4431)]

Selected Money Market Fund, Inc.; Notice of Filing of Application Pursuant to Section 6(c) of the Act for an Amendment of an Existing Order of Exemption From Rules 2a-4 and 22c-1 Under the Act

September 10, 1979

Notice is hereby given that Selected Money Market Fund, Inc. ("Applicant"), 111 West Washington Street, Chicago, Illinois 60602, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on July 19, 1979, and an amendment thereto on August 31, 1979, for an order pursuant to section 6(c) of the Act, amending Applicant's existing order of exemption from the provisions of Rules 2a-4 and 22c-1 under the Act (Investment Company Act Release No. 10663, April 17, 1979) to the extent necessary to permit Applicant to calculate its net asset value per share using the amortized cost method of valuing portfolio securities. 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's existing order exempts it from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit it to compute its price per share for the purpose of sales and redemptions of its shares to the nearest one cent on a share value of one dollar.

Applicant represents that its investment objective is to maximize current income to the extent consistent with preservation of capital by investing in short-term debt instruments. All investments by Applicant must consist of obligations maturing within one year from the date of acquisition.

Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9789, May 31, 1977).

Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor 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.

Section 6(c) of the Act provides, in part, that the Commission 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 or provisions of the Act or of the rules 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 asserts 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. Applicant represents that its board of directors has determined that, absent unusual circumstances, amortized cost value represents the fair value of its portfolio securities. Applicant's board of directors believes that this proposal will benefit both Applicant and its shareholders. Applicant asserts that, under an amortized cost valuation method, its shareholders would have the conveniences and advantages of a stable price of $1.00 per share.

Applicant consents to the following conditions to any order granting the relief requested in the application:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such

intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share and the maintenance of records of such review.

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated by the board of directors.

(c) Where the board of directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, Applicant undertakes that if the disposition of a portfolio security results in a dollar-weighted portfolio maturity in excess of 120 days, Applicant will invest its available assets in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1. above, and will record, maintain, and preserve for a period not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those dollar-denominated instruments which the board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or in the case of any instrument that is not so rated, of comparable quality, as determined by Applicant's board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than October 5, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28863 Filed 9-17-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-566]

Southern Industries Corp.; Notice of Application and Opportunity for Hearing

September 4, 1979.

Notice is hereby given that Southern Industries Corporation ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934 ("the 1934 Act"), for an order granting Applicant an exemption from sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

On June 1, 1979, Applicant became a wholly owned subsidiary of Dravo Corporation and Applicant's shareholders received common stock of Dravo in exchange for their shares of Applicant's common stock. As a result, there is no longer any market for the Applicant's securities.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than October 1, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues and fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-28847 Filed 9-17-79; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-558]

Universal Instruments Corp.; Notice of Application and Opportunity for Hearing

September 4, 1979.

Notice is hereby given that Universal Instruments Corporation ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting Applicant

from the provisions of section 15(d) of that Act.

The Application states, in part:

1. The Applicant became subject to the reporting requirements of section 15(d) of the 1934 Act by filing a registration statement under the Securities Act of 1933;

2. On July 10, 1979 an indirectly wholly-owned subsidiary of Dover Corporation ("Dover") was merged into the Applicant, and all the outstanding common stock of the Applicant, its only class of securities subject to the reporting requirements of the 1934 Act, was converted into the right to receive cash;

3. The Applicant presently has no outstanding common stock and all of the stock of the Dover subsidiary into which the Applicant was merged is owned by a wholly-owned subsidiary of Dover;

4. The Applicant no longer has any public shareholders and there is a total lack of trading activity in its stock; and

5. The Applicant believes that in view of the facts as set forth above and the substantial work and expense which would be necessary to prepare the otherwise required reports, the grant of this application is not inconsistent with the public interest or the protection of investors.

In the absence of an exemption, Applicant would be required to file a report on Form 10–Q for the period ended July 28, 1979 and a report on Form 10–K for the fiscal year ended October 27, 1979.

For a more detailed statment of the information presented, all persons are referred to the application which is on file in the offices of the Commission at 1100 L St., NW., Washington, D.C. 20549.

Notice is further given that any interested person, not later than October 1, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) any any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–28848 Filed 9–17–79; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Office of the Chief Counsel for Advocacy; Hearing

Pursuant to statutory authority set forth in Section 634d of Title 15, United States Code, the Chief Counsel for Advocacy of the Small Business Administration, Milton D. Stewart, Esquire, with the approval of the Administrator, A. Vernon Weaver, and the assistance of a Special Task Group of small business people, will conduct a public hearing in Washington, D.C., on October 1, 1979, on "Government Competition with Small Business." The hearing will convene at 9:30 AM (E.S.T.) in the Ohio Room of the Capitol Hilton, 16th & K Streets, NW.

The Office of the Chief Counsel for Advocacy will consider the adequacy of current efforts to curtail Federal involvement in commercial activities which compete with small business and the opposition to such efforts. Participants will include representatives of Federal, state and local employee unions; nonprofit organizations which compete with small business; and relevant government agencies.

The hearing is open to the public. Any member of the public may file a written statement with the Office of the Chief Counsel for Advocacy before, during or after the hearing. All communications or inquiries regarding this hearing should be addressed to:

Doreen Thompson, Office of the Chief Counsel for Advocacy, U.S. Small Business Administration, 1441 L Street, NW., Room 219, Washington, D.C. 20416, 202–653–6998.

Milton D. Stewart,

Chief Counsel for Advocacy.

[FR Doc. 79–28827 Filed 9–17–79; 8:45 am]

BILLING CODE 8025–01–M

Region VIII Advisory Council Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Sioux Falls, South Dakota, will hold a public meeting on Friday, October 5, 1979, from 9:00 a.m. to 3:30 p.m., at the Downtown Holiday Inn, 100 West 8th, Sioux Falls, South Dakota, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Chester B. Leedom, District Director, U.S. Small Business Administration, Suite 101 Security Building, 101 South Main, Sioux Falls, South Dakota 57102, (605) 336–2980, Ext. 231.

Dated: September 11, 1979.

K Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79–28826 Filed 9–17–79; 8:45 am]

BILLING CODE 8025–01–M

[License No. 03/03–5141]

Albright Venture Capital, Inc.; Issuance of a License To Operate as a Small Business Investment Company

On March 21, 1979, a notice was published in the **Federal Register** (44 FR 17248), stating that Albright Venture Capital, Inc., located at 8005 Rappahannock Avenue, Jersey, Maryland 20794, has filed an application with the Small Busines Administration pusuant to 13 C.F.R. 107.102 (1978), for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business April 5, 1979, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 03/03–5141 to Albright Venture Capital, Inc., on August 10, 1979.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 10, 1979.

Earl L. Chambers,

Acting Associate Administrator for Finance and Investment

[FR Doc. 79–28832 Filed 9–17–79; 8:45 am]

BILLING CODE 8025–01–M

[License No. 04/04–5154]

Cuban Investment Capital Co.; Issuance of a License To Operate as a Small Business Investment Company

On March 16, 1979, a notice was published in the **Federal Register** (44 FR 16059), stating that Cuban Investment Capital Co., located at 7425 N.W. 79th Street, Miami, Florida 33166, has filed an application with the Small Business Administration pursuant to 13 C.F.R. 107.102 (1978), for a license to operate as

a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business April 2, 1979, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 04/04–5154 to Cuban Investment Capital Co., on August 8, 1979.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 10, 1979.

Earl L. Chambers,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-28933 Filed 9-17-79; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-5148]

Feyca Investment Co.; Issuance of a License To Operate as a Small Business Investment Company

On June 27, 1979, a notice was published in the **Federal Register** (44 FR 37570), stating that Feyca Investment Company located at 2320 West Flagler Street, Miami, Florida 33125, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1979), for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business July 12, 1979, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 04/04–5148 to Feyca Investment Company on August 30, 1979.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 10, 1979.

Earl L. Chambers,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-28934 Filed 9-17-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Customs Service

Dextrines and Soluble or Chemically Treated Starches Derived From Corn Starch From the European Economic Community; Receipt of Countervailing Duty Petition and Initiation of Investigation

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

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and an investigation is being initiated to determine whether benefits which constitute a bounty or grant within the meaning of the countervailing duty law are granted by the European Community to manufacturers or exporters of corn starch derivatives. A preliminary determination will be made no later than March 6, 1980, and a final determination no later than May 20, 1980.

EFFECTIVE DATE: September 18, 1979.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, (202) 566–5492.

SUPPLEMENTARY INFORMATION: A petition was received in satisfactory form on August 2, 1979, from counsel on behalf of the Henkel Corporation, Edina, Minnesota, alleging that payments conferred by the European Community (EC) upon the manufacture, production, or exportation of dextrines and soluble or chemically treated starches derived from corn starch constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303). The European Community comprises Belgium, Denmark, the Federal Republic of Germany, France, Ireland, Italy, Luxemburg, the Netherlands and the United Kingdom. Imports covered by this investigation are classified under item 493.30, Tariff Schedules of the United States (TSUS).

The petition alleges that the European Community has granted a production subsidy and an export subsidy to corn starch producers.

The petition further alleges that at least one corn starch producer in the Netherlands has received preferential financing and other financial assistance from the Government of the Netherlands.

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination within 6 months of the receipt of a petition in proper form and a final determination within 12 months of the receipt of such petition, as to whether or not any bounty or grant is being paid or bestowed within the meaning of the statute.

However, this case may still be pending when the time limits of the Trade Agreements Act of 1979 (Pub. L. 96–39, 93 Stat. 144) go into effect, in which case the preliminary determination will be due no later than 65 days after January 1, 1980, pursuant to section 102(a)(1) of that Act, and a final determination no later than 75 days thereafter. Therefore, if the preliminary and final determinations in this case are not made before December 31, 1979, then a preliminary determination will be made no later than March 6, 1980, and a final determination will be made no later than May 20, 1980.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order No. 101–5, May 16, 1979, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954 and section 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

Dated: September 11, 1979.

David R. Brennan,

Acting General Counsel of the Treasury.

[FR Doc. 79-28870 Filed 9-17-79; 8:45 am]

BILLING CODE 4810-22-M

Fiscal Service

[Dept. Circ. 570, 1979 Rev., Supp. No. 4]

Surety Companies Acceptable on Federal Bonds

Certificates of authority as acceptable sureties on Federal bonds are hereby issued to the following companies under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $501,000 has been established for each company.

Name of Company, Business Address, and State in Which Incorporated

Reliance Insurance Company of New York, Four Penn Center Plaza, Philadelphia, Pennsylvania 19103; New York.

United Pacific Insurance Company of New York, Four Penn Center Plaza, Philadelphia, Pennsylvania 19103; New York.

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long at the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: September 11, 1979.

D. A. Pagliai,

Commissioner Bureau of Government Financial Operations.

[FR Doc. 79-28874 Filed 9-17-79; 8:45 am]

BILLING CODE 4810-35-M

Office of the Secretary

Sodium Hydroxide, in Solution, From France, Italy, Federal Republic of Germany, and the United Kingdom; Antidumping; Extension of Investigatory Period

AGENCY: United States Treasury Department.

ACTION: Extension of antidumping investigatory period.

SUMMARY: This notice is to advise the public that the Secretary of the Treasury has concluded that a tentative determination as to whether sales at less than fair value of sodium hydroxide, in solution, from France, Italy, Federal Republic of Germany, and the United Kingdom have occurred cannot resonably be made within 6 months. The investigatory period therefore will be extended.

Sales at less than fair value generally occur when the price of the merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market.

EFFECTIVE DATE: September 18, 1979.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On March 13, 1979, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from Linden Chemicals & Plastics, Inc., Cranford, New Jersey, alleging that sodium hydroxide, in solution, from France, Italy, Federal Republic of Germany, and the United Kingdom is being sold at less than fair value within the meaning of the Antidumpting Act, 1921, as amended (19 U.S.C. 160 *et seq.*) (hereinafter referred to as "the Act"). On the basis of this information, an "Antidumping Proceeding Notice" was published in the Federal Register on April 20, 1979 (44 FR 23622). Sodium hydroxide in solution is classified under item number 421.08 of the Tariff Schedules of the United States Annotated.

Pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)), notice is hereby given that the Secretary concludes that the determination provided for in section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)) cannot reasonably be made within six months. The investigatory period will therefore be extended by three months. An effort will be made to reach a determination by the end of the year. However, since a three month extension will bring these cases under the timetable dictated by section 102(b)(1) of the Trade Agreements Act of 1979 (P.L. 96-39, 93 Stat. 144, 189), effective January 1, 1980, the mandatory date for a preliminary determination is May 20, 1980.

The extension is primarily based upon the need to further analyze the production cost data. Sodium hydroxide, along with hydrogen, is a by-product of chlorine production. The proper allocation of costs to one product in a multi-output production process is a complex technical issue therefore necessitating longer investigation.

No requests have been received for a 6-month withholding of appraisement. One manufacturer has specifically requested that any withholding of appraisement be issued for a 3-month period. It is the intention of the Department, at this time, to honor that request if a withholding of appraisement should be ordered.

This notice is published pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)).

September 11, 1979.

David R. Brennan,

Acting General Counsel of the Treasury.

September 11, 1979.

[FR Doc. 79-28869 Filed 9-17-79; 8:45 am]

BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 132]

Assignment of Hearings

September 12, 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.

MC 25798 (Sub-349F), Clay Hyder Trucking Lines, Inc., now assigned for hearing on October 9, 1979 (9 days), at Orlando, FL, and will be held at the Court of Flags Hotel, 5715 Major Blvd.

MC 144678 (Sub-4F), American Freight System, Inc., now assigned for hearing on November 27, 1979 (4 days), at Memphis, TN, in a hearing room to be later designated.

MC 144578 (Sub-4F), American Freight System, Inc., now assigned for continued hearing on December 3, 1979 (5 days), at Oklahoma City, OK in a hearing room to be later designated.

MC 138635 (Sub-67F), Carolina Western Express, Inc., transferred to Modified Procedure.

MC 48958 (Sub-171F), Illinois California Express, Inc., now assigned for hearing on November 26, 1979 (2 weeks), at Tucson, AZ, in a hearing room to be later designated.

MC 128279 (Sub-35F), Arrow Freightways, Inc., now being assigned for hearing on November 28, 1979 (3 days) at Albuquerque, NM, location of hearing room will be designated later

MC 123681 (Sub-36), Widing Transportation, Inc., now being assigned for hearing on December 3, 1979 (1 week) at Portland, OR, location of hearing room will be designated later.

MC 119641 (Sub-151F), Ringle Express, Inc., transferred to Modified Procedure.

MC 2860 (Sub-174F), National Freight, INC., transferred to Modified Procedure.

MC 5888 (Sub-47F), Mid-American Lines, Inc., transferred to Modified Procedure.

MC 106674 (Sub-345F), Schilli Motor Lines, Inc., transferred to Modified Procedure.

MC 123255 (Sub-182F), B & L Motor Freight Inc., transferred to Modified Procedure.

MC 106401 (Sub-59F), Johnson Motor Lines, Inc., transferred to Modified Procedure.

MC 47583 (Sub-77F), Toline Freightways, Inc., transferred to Modified Procedure.

MC 200 (Sub-317F), Riss International Corporation, transferred to Modified Procedure.

MC 61231 (Sub-132F), Eastern Enterprises, Inc., transferred to Modified Procedure.
MC 77016 (Sub-19F), Budig Trucking Company, now being assigned for Prehearing Conference on October 15, 1979 at the Offices of the Interstate Commerce Commission in Washington, DC.
MC 139495 (Sub-380F), National Carriers, Inc., transferred to Modified Procedure.
MC 143068 (Sub-4F), Robert Tarbox d.b.a. Tarbox Trucking, transferred to Modified Procedure.
MC 67866 (Sub-36F), Film Transit, Inc., now being assigned for hearing on October 30, 1979 (9 Days), at Little Rock, AR in a hearing room to be designated later.
MC 143546 (Sub-1F), Atlantic Marketing Cooperative Association, now being assigned for hearing on November 27, 1979 (2 days), at Los Angeles, CA in a hearing room to be designated later.
MC 144247 (Sub-3F), Downey Enterprises Inc., now being assigned for Continued hearing on November 29, 1979 (7 days), at Los Angeles, CA in a hearing room to be designated later.
MC 89684 (Sub-49,54,57,58,63,74,78,81,85,91,92,100 and 103 M1F), Wycoff Company, Incorporated., now being assigned for Prehearing Conference on October 16, 1979 at the Offices of the Interstate Commerce Commission in Washington, DC.
MC 140094, Latin Express Service, Inc., now being assigned for hearing on October 29, 1979 at the Offices of the Interstate Commerce Commission in Washington, DC.
MC 139482 (Sub-69F), New Ulm Freight Lines, Inc., now being assigned for hearing on November 14, 1979 at the Offices of the Interstate Commerce Commission in Washington, DC.
MC 138438 (Sub-35F), D.M. Bowman, Inc., now being assigned for hearing on November 7, 1979 at the Offices of the Interstate Commerce Commission in Washington, DC.
MC 114569 (Sub-246F), Schaffer Trucking Inc., now being assigned for hearing on November 8, 1979 at the Offices of the Interstate Commerce Commission in Washington, DC.
MC 141804 (Sub-162F), Western Express, Division Of Interstate Rental, Inc., transferred to Modified Procedure.
MC 119632 (Sub-83F), Reed Lines, Inc., transferred to Modified Procedure.
MC 144864 (Sub-1F), Perry Steel Transport, Inc, transferred to Modified Procedure.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-28857 Filed 9-17-79; 8:45 am]
BILLING CODE 7035-01-M

[Exception No. 14 to Revised Service Order No. 1312]

Chicago and North Western Transportation Co.

Because of the inability of the railroad to assemble the cars, a movement of thirty (30) loaded covered hopper cars will be seriously delayed on The Chicago and North Western Transportation Company enroute to Buffalo, New York, for unloading. Peavey Flour Mills desires to ship a sixty (60) car unit-grain-train of wheat to Buffalo, New York, routed CNW–CONRAIL. The consignee at Buffalo is badly in need of the wheat, but only 30 covered hoppers have arrived at Minneapolis. Section (a) of Revised Service Order No. 1312 authorizes any railroad which is unable to supply the number of covered hopper cars required by its tariffs to transport unit-grain-trains of fewer cars in accordance with the scale in Section (b).

Pursuant to the authority vested in the Director Bureau of Operations, by Section (h) of Revised Service Order No. 1312, The Chicago and North Western Transportation Company is authorized to operate a sixty (60) car unit-grain-train from Minneapolis, Minnesota, to Buffalo, New York, comprised of sixty (60) railroad owned covered hoppers, on a one trip basis, with a minimum of 30 loaded cars operated in the first movement, and the remaining cars of the unit-train operated together in the final movement of this unit-grain-train. The total tariff minimum weight will be transported as required except if the railroad is unable to move all of the empty covered hoppers to the loading point on the final movement, the train can be reduced by the allowable number of cars or allowable weight percentage, as set forth in Section (b) of this Service Order.

This exception applies to railroad owned covered hopper cars.

The bills of lading and waybills shall bear the following endorsement: "Unit-grain-train of ( ) tons or ( ) cars. Partial movement of ( ) tons or ( ) cars forwarded authority Exception No. 14 to ICC Revised Service Order No. 1312. ( ) tons or ( ) cars to follow."

Demurrage rules will be treated as if each of the movements of the unit-train is a complete movement in itself.

Effective September 5, 1979.
Expires 11:59 p.m., September 14, 1979.

Issued at Washington, D.C., September 5, 1979.

Joel E. Burns,
Director.

[FR Doc. 79-28855 Filed 9-17-79; 8:45 am]
BILLING CODE 7035-01-M

[Rule 19, Mandatory Car Service Rules Ordered in Ex Parte No. 241; Amendment No. 1 to Revised Exemption No. 171]

Car Service Rules

Upon further consideration of Revised Exemption No. 171 issued August 30, 1979.

It is ordered, That, under authority vested in me by Car Service Rule 19, Revised Exemption No. 171 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to expire September 14, 1979.

This amendment shall become effective September 5, 1979.

Issued at Washington, D.C., September 4, 1979.

Interstate Commerce Commission,
Joel E. Burns, *Agent.*

[FR Doc. 79-28856 Filed 9-17-79; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. MC-64, General Temporary Order No. 19]

Special Emergency Authority Procedures During Hurricane Season

Decided: September 12, 1979.

There will likely be an emergency resulting from hurricane "Frederick" and any other subsequent hurricanes this season affecting a large number of the Nation's surface carriers which will be unable to transport property and passengers.

When the above conditions occur there will be an immediate and urgent need for motor carrier service to supplement temporarily the transportation facilities of the Nation for the movement of property and passengers.

To meet this need the Commission will provide a more flexible method for the processing of applications for temporary authority to render the required motor service.

It is ordered: Pursuant to 49 U.S.C. 10928, all persons who shall apply to any regional operations director, assistant regional operations director, district surpervisor, or their designees, of the Commission's Bureau of Operations are granted temporary authority to transport property or passengers in interstate or foreign commerce, by motor vehicle for a period of not more than 60 days to the extent and scope that any of the above designated officials certify that there is an immediate and urgent need for service.

Special procedures to expedite the filing and processing of these applications will be used.

This grant of temporary authority is conditioned upon compliance with applicable requirements concerning tariff and schedule publications, evidence of security for the protection of the public, and designation of agents for service of process, and further conditioned upon such tariffs and schedules quoting rates, fares, and

charges no lower than those of existing rail, water, or motor carriers in the territory in which the operations are to be authorized.

Service performed under temporary authority granted pursuant to this order shall in no way constitute evidence or a showing warranting future issuance of a certificate of public convenience and necessity or permit, as provided in 49 U.S.C. 10922 and 49 U.S.C. 10923.

Temporary authority granted pursuant to this order shall expire as of the first midnight after the issuance of an order by this Commission revoking General Temporary Order No. 19, except as to property or passengers, the transportation of which began prior to that time.

This order shall become effective September 12, 1979.

Notice of this order shall be given to motor carriers, rail carriers, other parties of interest, and to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis. Chairman O'Neal and Commissioner Clapp were absent and did not participate in the disposition of this proceeding.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-28858 Filed 9-17-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 182
Tuesday, September 18, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., September 20, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, N. W., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items adopted by notation.

2. Docket 36429, Apollo Airway's Exemption Request to Suspend Service at Santa Maria on Less than 90-days Notice. (BDA, OCCR)

3. Dockets 34751, 35545, 34977; Piedmont's notice of intent to suspend service at Danville, Virginia; Piedmont's Petition for Reconsidertion of Order 79-7-123 which denied its motion and exemption application to suspend service at Danville; Proposal of Cardinal/Air Virginia to provide essential air service at Danville; Motions of VIP Aviation for an extension of time to file a Danville proposal and for an order consolidating Docket 34751 with Docket 34977, Piedmont's notice of intent to suspend service at Rocky Mt./Wilson, North Carolina. (BDA)

4. Docket 36194, United's notice, under 401(j) (1) and (2), of its intent to terminate all air service at Charleston, West Virginia. (BDA, OCCR)

5. Docket 36220, TWA's notice of intent to suspend service at Atlanta, GA. (Memo 9111, BDA, OCCR)

6. Dockets 36351 and 36387, Application of Air Central and Pioneer Airways, commuters, for exemption to permit them to suspend service at certain points on less than the 90 days' notice required in connection with joint fares. (BDA)

7. Dockets 36428 and 36434, 30-day notice of Mississippi Valley Airlines of intent to terminate air transportation at Winona, Minnesota; 90-day notice of Republic Airlines of intent to terminate air transportation at Winona. (BDA)

8. Docket 32449, Elimination of stop restrictions in the Las Vegas-Little Rock and Las Vegas-Memphis markets. (Memo 9000-A, BDA)

9. Dockets 33142 and 33166, Applications of Air Florida for certificates to perform charter air transportation domestically and throughout North America and the caribbean. (BDA)

10. Docket 34744, Application of Seaboard World Airlines, Inc. for exemption authority to provide scheduled passenger service between the coterminal points Los Angeles and San Francisco, California; Chicago, Illinois; New York, New York; and Boston, Massachusetts and the terminal point Paris, France. (BIA, OGC)

11. Anchorage-Seattle/Portland authority. (BDA)

12. Dockets 36200 and 36296, Piedmont Aviation's application and petition for show-cause order to remove one-stop restrictions in its certificate for Route 87, between Charleston, W. Va. and New York, N.Y./Newark, N.J. and between Charleston, W. Va. and Atlanta, Ga.; USAir's application to remove one-stop restrictions in its certificate for Route 97, between Charleston, W. Va. and New York, N.Y./Newark, N.J., and motion to consolidate. (Memo 9118, BDA)

13. Docket 35895, Application of Eastern for Atlanta-Phoenix/Tucson nonstop authority; and Western's motion to consolidate the Atlanta-Phoenix portion of its application in Docket 33036. (BDA)

14. Dockets 35748, 35946, 35950, 35720, and 35962; *San Antonio-San Diego Show-Cause Proceeding*, Applications of Continental, Republic, Texas International, and USAir, respectively, for certificate authority. (Memo 8861-A, BDA)

15. Docket 36148, USAir's (formerly Allegheny) show-cause application for Denver-Los Angeles/San Francisco/San Jose nonstop authority. (BDA)

16. Dockets 35519, 34521, 35623, 35684, 35693, 35695, 35697, and 35712; Chicago-Cleveland/White Plains/Burlington Show-Cause Proceeding, USAir, formerly Allegheny, American, Continental, Delta, Air New England, Republic, formerly North Central and Southern, and Ozark, requesting Chicago-Cleveland or Chicago-Cleveland/White Plains/Burlington authority. (Memo 8757-B, BDA)

17. Dockets 35242, 36070, and 36295; Applications for Pittsburgh-Las Vegas Authority. (Memo 8903-A, BDA)

18. Dockets 35747, 34289, 34295, 35956, 35959, and 35961; New York/Newark-Pittsburgh and Phoenix-Palm Springs Show-Cause Proceeding, American, Republic, Braniff, and National, requesting New york/Newark-Pittsburgh and/or Phoenix/Palm Springs unrestricted authority. (BDA)

19. Dockets 36175, 36121, 35970, and 36303; Air California's Petition for Show-Cause Procedures on its Application for Salt Lake City-Fresno/Reno/Las Vegas/Boise Authority, Air California's Petition for Show-Cause Procedures on its Application for Boise-San Francisco/San Jose/Oakland/Portland/Reno/Salt Lake City Authority. (Memo 9117, BDA)

20. Dockets 35984, 36149, 36146, 36135, 36150, and 36164; Boston-Cleveland Show-Cause Proceeding. (Memo 8922-A, BDA)

21. Dockets 33349, 33700, 33917, 34909, 35144, and 35940; Show-cause petitions of A.V. Costantini seeking (1) disapproval of IATA and ATC travel agency programs, (2) a Board investigation of these programs, and (3) civil and criminal penalties against IATA, ATC, named airlines and individuals, the American Society of Travel Agents, et al. (Memo 9121, BDA, OGC, BCP)

22. Dockets 33986, 34419, and 32346, Trans Global Airways; Aeroamerica, Inc.—applications for section 418 all-cargo air service certificates; and Overseas National Airways, Inc.—revocation of section 418 certificate. (Memo 9120, BDA, OGC, BCP)

23. Dockets 33044, Policy statement on charter exemptions. (Memo 7999-B, OGC, BDA, POA, OEEO, BCAA, BLJ, BIA, OEA, BCP, OCCR, OC)

24. Docket 35394, Application of Kodiak-Western Alaska Airlines, Inc. and Charles F. Willis III for approval of acquisition of control and the resulting control and interlocking relationships. (BDA)

25. Docket 27067; Agreement CAB 26738-A1; Airline Fuel Corporation Agreement. This agreement would establish a non-profit corporation the entire airline industry could use to reach future agreements affecting the acquisition and distribution of aviation fuel supplies. (Memo 4965-A, BDA, BCP, OGC)

26. Dockets 35591, 35883, and 36363; Exemption from section 403 of the Federal Aviation Act of 1958 to permit U.S. certificated and foreign air carriers to carry in scheduled service passengers whose charters were canceled because of fuel shortages. (Memo 9119, BDA, BIA)

27. Dockets 32660 and 35635; IATA agreements which increase passenger fares and cargo rates to offset fuel price increases and establish new cargo rate structures, with increases, in air transportation. (Memo 9116, BIA)

28. Dockets 30288, 30528, 31241, 30820, 31521, 31526, 31562, 31572, 31739, 31582, 32432, 32579, 33018, 33092, 33267, 33427, 33563, 33582, 33617, 33622, 33592, 33720, 33978, 34115, 34195, 34436, 34534, 35064, 35091, and 35337; Dismissal of various inactive investigations (Memo 9122, BDA)

29. Docket 29476, Complaint of Donald L. Pevsner, Esq., against IATA mileage rules used in passenger fares construction. (BIA, OGC, BDA)

30. Docket 35285, Application of Bordaire Limited for an initial foreign air carrier permit to operate charters between Canada and the United States using small aircraft. (BIA, OGC, BLJ)

31. Docket 35236, National Airline Commission T/A Air Niugini application for an initial foreign air carrier permit to engage in scheduled service between Papua New Guinea and Honolulu and between Papua New Guinea and Guam. (BIA, OGC, BLJ)

32. Dockets 34127 and 34167, Application of Flying Tiger Line, Inc. and Application of Seaboard World Airlines, Inc. for amendment of their respective certificates of public convenience and necessity. (Memo 8911–A, BIA, OGC)

33. Cancellation of Rule 380(H), CAB No. 142, which limits carrier liability for schedule changes and irregularities. (BCP, BDA, OGC, OEA)

34. Docket 31932, Pacific Western Airlines' application to renew and amend one of its three foreign air carrier permits to operate charters between 20 named European countries and any point or points in the United States, subject to conditions and limitations. (BIA, OGC, BLJ)

35. Docket 34794, Petition for repeal of PR–196, which established procedures for assessing civil penalties in enforcement proceedings. (OGC, BCP)

36. Prohibition of age discrimination. (OGC, OEEO, BCP)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–1808–79 Filed 9–14–79; 3:19 pm]

BILLING CODE 6320–01–M

2

COMMODITY FUTURES TRADING COMMISSION:

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, No. 175, Friday, September 7, 1979, 52443.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., September 14, 1979.

CHANGES IN THE MEETING: Meeting canceled.

[S–1810–79 Filed 9–14–79; 3:40 pm]

BILLING CODE 6351–01–M

3

September 12, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., September 19, 1979

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plum, Secretary, telephone (202) 275–4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Office of Public Information.

Power Agenda—339th Meeting, September 19, 1979, Regular Meeting (10 a.m.)

CAP–1. Docket No. ER79–387, Central Telephone and Utilities.
CAP–2. Docket No. E–7777(II), Pacific Gas & Electric Co., Docket No. E–7796, Pacific Power & Light Co.
CAP–3. Docket No. ER78–524, Michigan Power Co.
CAP–4. Docket No. ER78–507, Public Service Co. of Colorado.
CAP–5. Docket No. ER79–84, Southern Co. Services, Inc.

Miscellaneous Agenda—339th Meeting, September 19, 1979, Regular Meeting

CAM–1. Docket No. RA79–17, City of Long Beach.

Gas Agenda—339th Meeting, September 19, 1979, Regular Meeting

CAG–1. Docket No. RP73–66 (PGA 79–1), Inter-City Minnesota Pipelines LTD., Inc.
CAG–2. Docket Nos. RP77–19 and RP78–88, Transwestern Pipe Line Co.
CAG–3. Docket Nos. RP76–136 and RP77–26, Transcontinental Gas Pipe Line Corp.
CAG–4. Docket No. RP75–94, Great Lakes Gas Transmission Co.
CAG–5. Docket Nos. RP74–61 (PGA79–1) and RP76–10 (PGA79–1), Arkansas Louisiana Gas Co.
CAG–6. Docket Nos. RP78–51 and RP79–1, Colorado Interstate Gas Co.
CAG–7. Docket No. RP78–75, Northern Natural Gas Co. (Peoples Natural Gas Division).
CAG–8. Docket No. RP73–65 (PGA No. 78–4) (AP78–1), Columbia Gas Transmission Corp.
CAG–9. Docket No. IS79–2, Gulf Central Pipeline Co.
CAG–10. Docket No. CI75–277 (Show Cause), J. G. Stone, Sun Oil Co. and United Gas Pipe Line Co.
CAG–11. Docket Nos. CI78–742, et al., Exxon Corp., et al.
CAG–12. Docket No. CI78–1219, the Superior Oil Co., Docket No. CI79–192, Amoco Production Co., Docket No. CI79–193, Amoco Production Co., Docket No. CI76–586, Atlantic Richfield Co., et al., Docket No. CI78–844, Union Oil Co. of California, Docket No. CI78–1258, Canadian Superior Oil (U.S.) Ltd., Docket No. G–5010, Shell Oil Co., Docket No. CI74–392, Exxon Corp., et al., Docket No. CI72–440, Amoco Production Co., et al., Docket No. CI78–698, Cotton Petroleum Corp., Docket No. CI78–1279, Aminoil USA, Inc., Docket No. CI78–1133, Union Oil Co. of California, Docket No. CI78–1164, the Louisiana Land and Exploration Co., Docket No. CI77–425, Ladd Petroleum Corp.
CAG–13. Docket No. CI79–522, Texaco Inc.
CAG–14. Docket No. CI79–519, Texaco Inc.
CAG–15. Docket No. CS71–383, Texasgulf Inc.
CAG–16. Docket No. CI75–677, Union Texas Petroleum, a division of Allied Chemical Corp., Docket No. CS68–21, Joseph I. O'Neill.
CAG–17. Docket No. CP77–347, Western Gas Interstate Co.
CAG–18. Docket No. CP79–232, Natural Gas Pipeline Co. of America, Transcontinental Gas Pipe Line Corp. and Texas Eastern Transmission Corp.
CAG–19. Docket No. CP76–14, Natural Gas Pipeline Co. of America., Docket No. CP74–281, Tennessee Gas Pipeline Co., division of Tenneco Inc., Docket No. CP75–301, Tennessee Gas Pipeline Co., division of Tenneco Inc., Docket No. CP75–329, Stingray Pipeline Co., Docket No. CP75–367, Southern Natural Gas Co. and Mid Louisiana Gas Co.
CAG–20. Docket No. CP79–182, Natural Gas Pipeline Co. of America.
CAG–21. Docket No. CP76–528, Natural Gas Pipeline Co. of America., Docket No. CP77–16, Panhandle Eastern Pipe Line Co. and Trunkline Gas Co., Docket No. CP77–30, Mississippi River Transmission Corp
CAG–22. Docket Nos. CP66–110, et al., (CP66–121), Midwestern Gas Transmission Co., Docket No. CP66–112 (Docket Nos. CP66–110, et al.), Docket No. CP70–20 (Docket Nos. CP70–19, et al.), Docket No. CP71–223 (Docket Nos. CP71–222, et al.), Great Lakes Gas Transmission Co., Docket No. CP66–110, et al., Great Lakes Gas Transmission Co., Docket No. CP79–161, Midwestern Gas Transmission Co., Docket No. CP79–169, Michigan Wisconsin Pipeline Co., Docket No. CP79–259, Northern Natural Gas Co.

Power Agenda—339th Meeting, September 19, 1979, Regular Meeting

I. Licensed Project Matters

P–1. Project No. 2628, Alabama Power Co.

II. Electric Rate Matters

ER–1. Docket No. ER79–549 and ER79–550, Appalachian Power Co.
ER–2. Docket No. ER79–566, Interstate Power Co.
ER–3. Docket No. ER79–544, Idaho Power Co.
ER–4. Docket Nos. ER79–529 and ER79–582, Mississippi Power & Light Co.
ER–5. Docket No. ER79–536, Cambridge Electric Light Co.
ER–6. Docket No. ER79–539, Central Maine Power Co.
ER–7. Docket No. ER79–537, Lockhart Power Co.
ER–8. Docket No. ER79–526, El Paso Electric Co.
ER–9. Docket No. ER76–495, Carolina Power & Light Co.
ER–10. Docket No. E–6469 and ER76–377, Lockhart Power Co.
ER–11. Docket No. E–7738, Boston Edison Co.
ER–12. Docket No. EL79–8, Central Power & Light Co., Public Service Co. of Oklahoma, Southwestern Electric Power Co., and West Texas Utilities Co.
ER–13. Docket No. EL79–16, Otter Tail Power Co.
ER–14. Docket No. E–9408, American Electric Power Service Corp.

Miscellaneous Agenda—339th Meeting, September 19, 1979, Regular Meeting

M–1. Docket No. RM79–55, Proposed Rules Regarding Rates and Exemptions for Qualifying Cogeneration and Small Power Production Facilities Pursuant to Section

210 of the Public Utility Regulatory Policies Act of 1978.

M-2. Docket No. RM79-6, Procedures Governing the Collection and Reporting of Information Associated With the Cost of Providing Electric Service.

M-3. Docket No. RM79- , Price Discrimination and Anti-Competitive Effect—Substantive Rule.

M-4. Docket No. RM79- , Price Discrimination and Anti-Competitive Effect—Procedural Rule.

M-5. Docket No. RM79-59, Delegation of the Commission's Authority to Various Staff Office Directors.

M-6. Docket No. RM79- , Interim Rule Bona Fide Offers; Right of First Refusal.

M-7. Docket No. RM79-7. Well Category Determinations.

M-8. Docket No. RM79-49, U.S. Geological Survey (New Mexico) Section 108 NGPA Determinations Arapahoe Drilling Co. and John E. Schalk Wells.

Gas Agenda—339th Meeting, September 19, 1979, Regular Meeting

I. Pipeline Certificate Matters

CP-1. Docket No. CP76-313, et al., National Fuel Gas Corp., et al.

CP-2. Docket No. CP75-140, et al., Pacific Alaska LNG Company, et al.

Kenneth F. Plumb,

Secretary.

[S-1809-79 Filed 9-14-79; 3:48 p.m.]

BILLING CODE 6450-01-M

4

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: September 10, 1979; 44 FR 52788.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING. 10 a.m., September 12, 1979.

CHANGE IN THE MEETING: Addition of the following item to open session:

5. Korean Cargo Preference Law—Status Report.

[S-1802-79 Filed 9-14-79; 11:12 am]

BILLING CODE 6730-01-M

5

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, September 21, 1979.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, and salary actions) involving individual Federal Reserve System employees.

2. Any agenda items carried forward from a previously annouced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: September 13, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-1801-79 Filed 9-14-79; 9:30 am]

BILLING CODE 6210-01-M

6

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, September 19, 1979.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of Amendment to Trade Regulation Rule on Preservation of Consumers' Claims and Defenses.

CONTACT PERSON FOR MORE INFORMATION: Ira J. Furman, Office of Public Information (202) 523-3830. Recorded Message: (202) 523-3806.

[S-1803-79 Filed 9-14-79; 1:12 pm]

BILLING CODE 6750-01-M

7

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 10 a.m., September 20, 1979.

PLACE: 2025 M Street NW., Washington, D.C., 4th Floor Conference Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Review of draft of Bylaws of Central Liquidity Facility and organizational resolutions.

(2) Legal interpretation concerning donations and contributions to organizations that are exempt from taxation pursuant to Section 501(c)(3) of the IRS Code.

(3) Consideration of any applications for charters, amendments to charters, mergers and insurance as may be pending at that time.

(4) Consideration of updating Section 700.1(j) of the National Credit Union Administration Rules and Regulations dealing with the definition of risk assets.

(5) Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Rosemary Brady, acting Secretary of the Board, telephone (202) 254-9800.

[S-1800-79 Filed 9-14-79; 9:30 am]

BILLING CODE 7535-01-M

8

NATIONAL RAILROAD PASSENGER CORPORATION.

Board of Directors Meeting

In accordance with Rule 4a. of Appendix A of the Bylaws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on September 26, 1979.

A. The meeting will be held on Wednesday, September 26, 1979, in the National Guard Association Building, 3rd Floor, One Massachusetts Avenue, Northwest, Washington, D.C., beginning at 9:30 a.m.

B. The meeting will be open to the public at 10:30 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

Agenda—National Railroad Passenger Corporation

Meeting of the Board of Directors—September 26, 1979

Closed session (9:30)

1. Internal personnel matters.
2. Litigation matters.

Open session (10:30)

3. Approval of minutes of regular meeting of August 29, 1979.
4. Election of officers.
5. Commitment approval requests:

76-294-S4 FY 1980 Installment for Purchase of the Northeast Corridor.

79-123 Modification of 12 Bi-Level Cars Necessary for Chicago-Valparaiso Service.

6. Approval of consulting contract for AMFLEET dual brake system.
7. Delegation of authority to execute insurance documents.
8. Approval of Pennsylvania liquor license.
9. Board meeting dates for 1980.
10. Presentation—Locomotive status and requirements.
11. Board Committee reports: Equipment, Legal Affairs, Northeast Corridor Improvement Project, Organization and Compensation, and ad hoc By-Laws Revision.
12. President's Report.
13. New Business.
14. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Corporate Secretary at (202) 383-3973.

Dated: September 14, 1979.

Elyse G. Wander,

Corporate Secretary.

[S-1807-79 Filed 9-14-79; 2:48 pm]

9

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 52947.

TIME AND DATE: September 13, 18 and 19, 1979.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed (changes).

MATTERS TO BE CONSIDERED:

Thursday, September 13; 2 p.m.

1. Briefing on report on current NRC requirements and guidance to licensees for qualification of reactor operators (approximately 1 hour, public meeting) (rescheduled from 2:30 p.m.).
2. Briefing on report of Task Force on Emergency Planning (approximately 1 hour, public meeting) (rescheduled from 1:30 p.m.).
3. Affirmation session (as scheduled).

Tuesday, September 18; 2 p.m.

Time reserved for possible discussion of personnel matter (approximately 2 hours, closed—exemption 6).

Wednesday, September 19; 2:30 p.m.

Discussion of personnel matter (if necessary) (approximately 1½ hours, closed—exemption 6).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, 202–634–1410.

Walter Magee,

Office of the Secretary.

[S–1804–79 Filed 9–14–79; 2:45 pm]

BILLING CODE 7590–01–M

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, September 20, 1979.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Thursday, September 20; 1:30 p.m.

1. Briefing on licensing schedules and staff impacts (approximately 1 hour), public meeting).
2. Affirmation session (approximately 10 minutes, public meeting): a. Reappointment of ACRS Member.
3. Brifing on unified interagency procedures applicable to nuclear exports subject to E.O. 12114 on foreign environmental impacts (tentative approximately 1 hour), closed—exemption 1).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee

Office of the Secretary.

[S–1805–79 Filed 9–14–79; 2:45 pm]

BILLING CODE 7590–01–M

federal register

Tuesday
September 18, 1979

Part II

Department of Commerce

Improving Government Regulations; Semi-Annual Agenda

DEPARTMENT OF COMMERCE

[13 CFR Ch. V]

[15 CFR Chs. I–IV, VIII, IX, and XII]

[32A CFR Ch. VI]

[37 CFR Ch. I]

[45 CFR Ch. XX]

[46 CFR Ch. II]

[50 CFR Chs. II, and VI]

Improving Government Regulations; Semi-Annual Agenda of Regulations

AGENCY: U.S. Department of Commerce.

ACTION: Semi-Annual Agenda of Regulations.

SUMMARY: In compliance with Executive Order 12044, the Department of Commerce (DOC) publishes twice a year an agenda of significant regulatory actions under consideration by its various units. The agenda also includes a list of existing rules and regulations which have been selected for review. The purpose of the regulatory agenda is to provide information to the public on regulations issued by the Department and to facilitate comments and views by interested public parties on such matters.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific regulatory action contained in the agenda, contact the individual identified as the contact person. Comments or inquiries of a general nature about the agenda should be directed to: Mr. Robert T. Miki, Director, Office of Regulatory Economics and Policy, Room 7614, U.S. Department of Commerce, Main Commerce Building, Washington, D.C. 20230, Telephone number: (202) 377–2482.

SUPPLEMENTAL INFORMATION: On March 23, 1978, President Carter signed Executive Order 12044, "Improving Government Regulations". To comply with the Executive Order, the Department published in the **Federal Register** (44 FR 2082, January 9, 1979) Department Administrative Order (DAO) 218–7, entitled "Issuing Departmental Regulations". The Administrative Order, including appendices, establishes the overall procedures to be followed by the various units in developing and promulgating regulations.

One requirement established by the Executive Order is that all executive agencies publish semi-annually an agenda of significant regulations which are under consideration. The Order also requires that the agenda include a list of regulations which the agency intends to review. On October 2, 1978, the Office of the Federal Register published the dates that the Department's semi-annual agenda would appear in the **Federal Register** for the coming year; the dates specified were February 15, 1979 and August 15, 1979 (43 FR 13). Because of unexpected delays, the Department was unable to publish its semi-annual agenda on the two specified dates. The Department's first agenda was published on March 7, 1979 (44 FR 12562), with an addendum published by the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) on April 30, 1979 (44 FR 25354). This is the second semi-annual agenda to be published by the Department. In calendar year 1980, the Department's agendas will be published on May 15 and November 14, to coincide with the Regulatory Council's Calendar of Regulations (44 FR 48976).

The Executive Order directs government agencies to provide in the agenda the following minimum information on signification regulations under consideration:

—A description of the proposed regulation under consideration
—The need for the regulation
—The legal basis for the action
—The name and telephone number of an agency official knowledgeable about the regulation
—Whether a regulatory analysis will be required
—A list of regulations set for review
—The status of regulations previously listed on the agenda

In addition to these minimum requirements, the Department's agenda provides an outline of each operating unit's plan for obtaining public comments as well as the *major* issues to be considered before formulating final regulations.

Executive Order 12044 provides broad guidelines for determining the criteria which should be employed in designating regulations as being "significant". The Executive Order further directs each agency to develop specific criteria for identifying which regulations should be treated as significant. The Department developed such criteria in DAO 218–7, which cites the basic considerations that each agency head should consider in determining whether a regulation is significant. More specific criteria for determining whether a regulation should be treated as significant is provided by each DOC operating unit in its appendix to the DAO.

Coverage

The Department's first agenda covered only significant rules and regulations which were under consideration. The Department's second agenda of regulations covers all rules and regulations which the Department will have under consideration over the next 12 months. A list of regulations under consideration is provided in Schedule A. Regulations under consideration include not only new regulations being proposed, but also changes, additions, or deletions to existing rules and regulations.

The agenda also provides a list (Schedule B) of those regulations that have scheduled for review during the forthcoming year. This list is not limited to significant regulations but includes all regulations that will be reviewed by the Department's units. Regulations deleted from the Department's first agenda are listed in Schedule C, with a brief explanation of why the regulations were deleted from the current agenda.

Explanation of Information Contained in the Agenda

The Department has 12 operating units in addition to departmental offices. Some of the operating units, such as the Maritime Administration (MARAD), have major regulatory responsibilities whereas other operating units, such as the Office of Minority Business Enterprise (OMBE), currently have no regulations in effect. The departmental offices, such as the Office of Investigations and Security (OIS) and the Office of Administrative Services (OAS), have few regulations. The names and abbreviations of the DOC units reporting regulations are as follows:

—ADMIN—Assistant Secretary for Administration
—EDA—Economic Development Administration
—ITA—Industry and Trade Administration
—MARAD—Maritime Administration
—NOAA—National Oceanic and Atmospheric Administration (includes the Office of Coastal Zone Management (OCZM) and the National Marine Fisheries Services (NMFS))
—NTIA—National Telecommunications & Information Administration
—OCE—Office of the Chief Economist (includes the Bureau of the Census (CENSUS), Bureau of Economic Analysis (BEA), and Office of Federal Statistical Policy and Standards (OFSPS))

—OMBE—Office of Minority Business Enterprise
—ORD—Office of Regional Development
—S&T—Assistant Secretary for Science and Technology (includes the Office of Environmental Affairs (OEA), National Bureau of Standards (NBS), National Technical Information Service (NTIS), and Patent and Trademark Office (PTO))
—USTS—United States Travel Service

Schedule A provides a list of regulatory actions which are under consideration. The schedule indicates whether the regulation under consideration is significant, whether a regulatory analysis is required, and the date (month or season) that the next regulatory action is anticipated. The name, titled position, and telephone number of a person familiar with the regulation is provided. Additional information on each *significant* pending or proposed regulation listed in Schedule A is provided in the accompanying appendix which contains the complete agenda entry for each significant regulation. Each agenda entry provides the information required by Executive Order 12044 and DAO 218–7.

Schedule B provides a list of existing regulations which have been scheduled for review by DOC units over the next 12 months.

In this second agenda, a new Schedule C has been added to reflect those regulations which were deleted from Schedules A and B which appeared in the first agenda. Schedule C provides a brief explanation of why the regulation was deleted, for example, a regulation initially under consideration has been adopted or the scheduled review of an existing regulation has been completed. Where a regulation is adopted, revised, or deleted, a **Federal Register** citation is provided so that the reader can obtain more detailed information on the unit's final action.

A total of 99 regulations are presented in the Department's agenda as being under consideration (See Schedule A). An additional 28 existing regulations are scheduled for review by the responsible operating units. Eight out of the 12 operating units of the Department reported regulations under consideration or development; the remaining units did not have regulations to report.

Of the 99 regulations reported as pending, 67 were determined to be significant by agency heads. Another 16 were considered not significant and the significance of 16 pending regulations was unknown at this time. Thirty-five of the regulations will require a regulatory analysis. Virtually all of the regulatory analyses are being prepared at the discretion of the responsible operating unit heads since the anticipated economic impacts associated with these pending regulations do not approach or exceed the threshold criteria provided in Executive Order 12044, or the minimal economic criteria contained in DAO 218–7. Of the regulations scheduled for review, two will *require* a regulatory analysis.

As noted above, the importance of 16 regulations (i.e., whether they are significant or not) is not known at this time. In these instances, the operating unit has not reached the notice of proposed rulemaking stage or initial action on the regulation is not scheduled for at least another six months. The Department's listing of all regulations anticipated *over the next 12 months* will invariably result in many units not being able to classify the importance of their pending actions at such an early stage. The regulatory importance of a number of NOAA's pending actions are unknown since they relate to fishery management plans. The difficulty of determining the importance of many of NOAA's fishery management actions at an early stage is discussed in a separate section.

Users of the Department's agenda will note that a large number of regulations presented in the agenda deal with fish management programs which fall under NOAA's NMFS. To avoid repetition of programs and definitions, as well as to provide the reader with some understanding of the technical and institutional elements of the Service's programs, a section on "Explanation of Information Contained in NMFS's Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS's Regulatory Entries

The Fishery Conservation and Management Act of 1976 (FCMA) 16 U.S.C. 1801 et seq., requires that a preliminary fishery management plan (PMP) be prepared for all fisheries engaged in by foreign fishing nations within the fishery conservation zone (FCZ). The FCZ refers to those waters from the outer edge of the United States territorial sea to a distance of 200 miles (i.e., generally from three to 200 miles offshore). In addition, for fisheries in the FCZ in which there is domestic fishing, fishery management plans (FMP's) shall be prepared if it is determined that those fisheries require conservation and management measures. Although PMP's apply only to foreign fishing, the FMP's regulate both foreign and domestic fishing. When promulgated, the FMP's supersede the PMP's. Under the FCMA, eight Regional Fishery Management Councils (RFMC's) have been established for the purpose of preparing FMP's for fisheries within their respective areas.

The FCMA requires that certain standards be met in regulating fisheries. Among the factors, the optimum yield (OY) of the fisheries must be specified. This entails the development of appropriate regimes to ensure sound management of involved stocks while taking into account relevant biological, social, and economic factors. Domestic fishermen are given a preferred status by the FCMA. However, for those fisheries in which there exists a surplus over domestic harvest, foreign nations are permitted to fish, provided certain conditions are met. For each fishery, the total allowable level of foreign fishing (TALFF) is determined. Governing International Fishery Agreements (GIFA's) must be executed between the United States and those nations desiring to fish. The TALFF is allocated among foreign nations by the Secretary of State. Allocations are based upon certain standards, such as historic fishing rights and reciprocal fishing privileges. Vessels of foreign nations must apply for and receive permits to fish in the FCZ.

Classes of domestic fishermen may also be allocated shares of the harvest in fisheries regulated under FMP's, if certain standards are met. Such allocations may not be discriminatory and must relate to the conservation and management of the concerned fishery. There may be allocations between the commercial and recreational sectors of the fishery.

In allocating fish stocks, fish caught as the result of directed effort (target catch), and fish caught incidentally (incidental catch) are taken into account. Various management tools are used to regulate fisheries. These may include the limitation of certain types of gear (e.g., bottom trawls, longlines), seasons, and the necessity of opening or closing areas to fishing based upon gear conflicts, conditions of the stocks, or other factors.

The initiation of FMP's is the responsibility of the eight RFMC's. In the development of such plans (and regulations), the Councils are required by law to conduct public hearings on the draft plans during which, among other things, alternative means of regulating the fishery are considered. However, at the time the semi-annual regulatory agenda is published, NMFS is usually unable to determine either the specific plan objectives or the alternatives for management since the Councils have

neither approved such plans nor submitted them to the Secretary of Commerce for review, adoption, and implementation. Hence, the information about some plans is quire limited.

Foreign fishing regulations and foreign fee schedules are published yearly (and/or as necessary) in the **Federal Register** to provide foreign nations with the necessary information ("1979 Fee Schedule for Foreign Fishing"—43 FR 57148; "Foreign Fishing, Foreign Fee Surcharge"—43 FR 59507; "Foreign Fishing Regulations—Activities Within the U.S. Fishery Conservation Zone"—43 FR 59292). Guidelines for the development of the FMP's are also published in the **Federal Register** to serve the needs of the RFMC's.

Juanita M. Kreps,

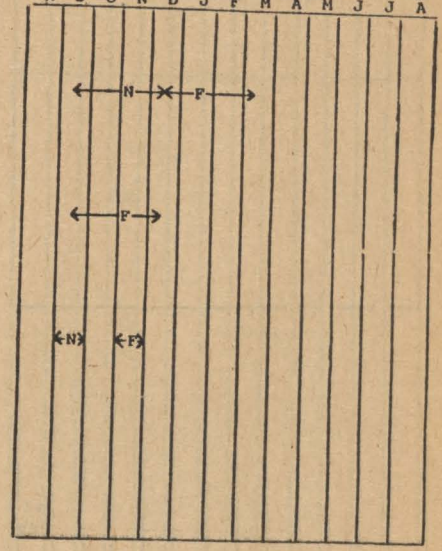
Secretary of Commerce.

BILLING CODE 3510-17-M

Schedule A - DOC SEMI-ANNUAL AGENDA OF PENDING REGULATIONS

August 15, 1979

Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required Yes	No	Unknown	Anticipated Date of Regulatory Action (A=ANPRM, N=NPRM, I=Interim, F=Final)*
ADMIN	Age Discrimination Act of 1975: Promulgation of Regulations Required Under the Act	Alice K. Helm Legal Advisor for Civil Rights (202) 377-4993		X			X		
ADMIN	Section 504 of Rehabilitation Act of 1973: Promulgation of Regulations Required Under the Act	Alice K. Helm Legal Advisor for Civil Rights (202) 377-4993		X			X		
ADMIN	Department of Commerce Grants: Disputes and Appeals Procedures (15 CFR Part 18)	Sonya J. Gilliam Program Analyst (202) 377-5441	X				X		



* A=Advanced Notice of Proposed Rulemaking; N=Notice of Proposed Rulemaking; I=Interim Rule; F=Final Rule.

Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
EDA	Supplementary Grants, Public Works and Development Facilities Program (13 CFR 305.5(a), (b)	James F. Marten Asst. Chief Counsel (202) 377-5441	X				X	
ITA	Energy Regulation: Allocation Regulations (32 CFR Part 671)	John A. Richards Act. Dir., Ofc. of Industrial Mobilization (202) 377-4506	X				X	
MARAD	Inventories of Vessels Covered By Operating-Differential Subsidy Agreements (46 CFR Part 293)	Ernest Breummer Mgmt. Analyst, Ofc. of Mgmt. & Organization (202) 377-2562	X				X	

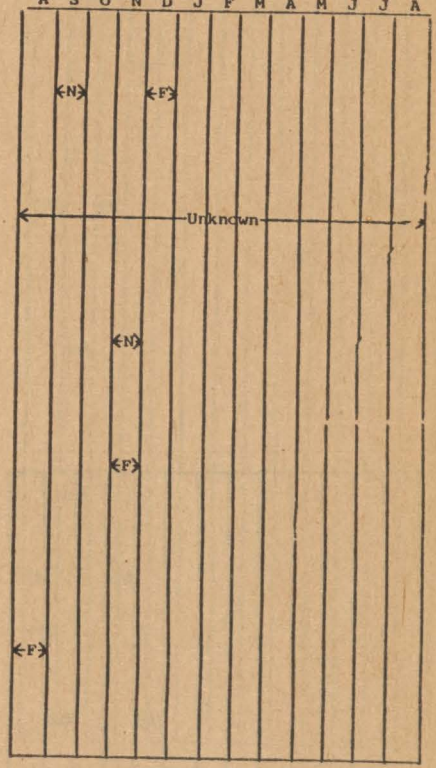
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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
MARAD	Merchant Marine Training (46 CFR Part 310)	Kathleen A. Shetler Manpower Mgmt. Officer Ofc. of Maritime Manpower (202) 377-5653	X				X	
MARAD	Construction Differential Subsidy (CDS) --Requirements for Aid (46 CFR Part 251)	James E. Saari Attorney-Advisor Ofc. of General Counsel (202) 377-2771	X				X	
MARAD	Conservative Dividend Policy (46 CFR Part 283)	Murray Bloom Examiner, Ofc. of Subsidy Contracts (202) 377-4631	X				X	
MARAD	Rules of Practice and Procedure; Procedure for Hearing on Operating Differential Subsidy Applications; Applications for Subsidies and Other Direct Financial Aid (46 CFR Parts 201, 208 (New), and 251)	Robert J. Patton, Jr. Exec. Staff Asst. Secy. (202) 377-2188	X				X	
MARAD	Operating-Differential Subsidy for Bulk Cargo Vessels Engaged In Worldwide Services; Principal Foreign Flag Competition; Foreign Wage Cost (46 CFR 252.22, 252.31)	Frederick R. Larson Dir., Ofc. of Ship Operating Costs (202) 377-5532	X				X	

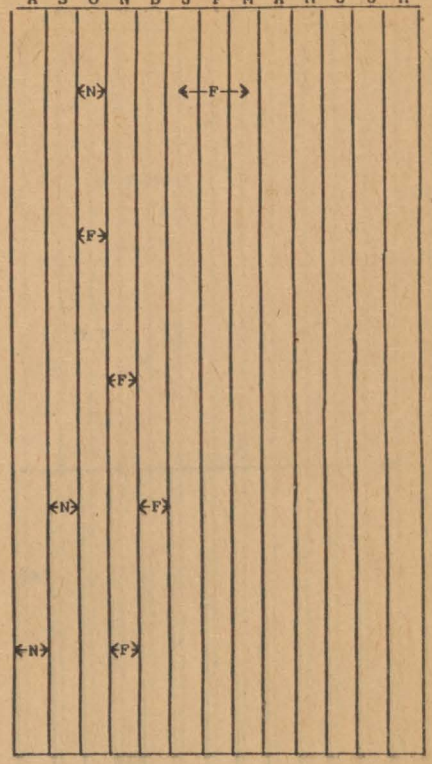
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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
MARAD	Award and Administration of Operating-Differential Subsidy For Dry Bulk Cargo Vessels (46 CFR Part 254)	Frederick R. Larson Dir., Ofc. of Ship Operating Costs (202) 377-5532	X				X	
MARAD	Operating-Differential Subsidy for Bulk Cargo Vessels Engaged In Worldwide Service; Essential Service Requirement (46 CFR 252.21)	Kenneth Willis Examiner, Ofc. of Subsidy Contracts (202) 377-4660	X			X		
MARAD	Construction-Differential Subsidy (CDS) Contracts (46 CFR Part 251)	Melvin S. Eck Attorney-Advisor Ofc. of General Counsel (202) 377-2771	X				X	
MARAD	Cargo Preference-U.S. Flag Vessels--Determination of Fair and Reasonable Rates (46 CFR 381.8, 381.9 & Part 382)	Frederick R. Larson Dir., Ofc. of Ship Operating Costs (202) 377-5532	X					X
MARAD	Charges For Processing Certain Applications (46 CFR 221.14)	Robert Willett Budget Analyst, Ofc. of Budget & Program Evaluation (202) 377-3901	X				X	

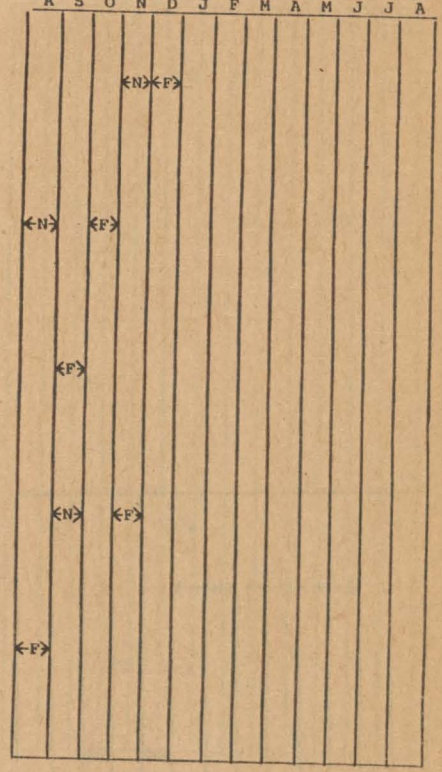
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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Atlantic Billfishes and Sharks Preliminary Fishery Management Plan: Amendment to Extend the Regulation for the Period January 1, 1980 to December 31, 1980	William H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X		
NOAA/NMFS	Atlantic Mackerel Fishery Management Plan	Allen E. Peterson, Jr. Regional Dir., Northeast Region (617) 281-3600	X			X		
NOAA/NMFS	Atlantic Squid Fishery Management Plan	Robert W. Hanks Dep. Regional Dir., Northeast Region (617) 281-3600	X			X		
NOAA/NMFS	Atlantic Butterfish Fishery Management Plan	Robert W. Hanks Dep. Regional Dir., Northeast Region (617) 281-3600	X			X		
NOAA/NMFS	Stone Crab Fishery Management Plan	William H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X		

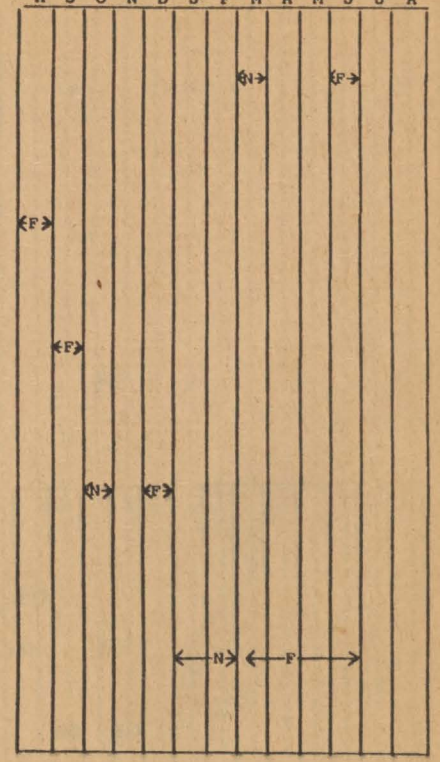
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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Extension of Commercial/Recreational Salmon Off California, Oregon, and Washington Fishery Management Plan (50 CFR Part 661)	Donald R. Johnson Regional Dir., Northwest Region (206) 442-7575	X			X		
NOAA/NMFS	High Seas Salmon Fishery Management Plan Regulations	Philip Chitwood Chief, Fisheries Mgmt. Operations Br., Alaska Region (907) 586-7229	X			X		
NOAA/NMFS	Pacific Billfish and Oceanic Sharks Preliminary Fishery Management Plan	Gerald V. Howard Regional Dir., Southwest Region (213) 548-2575	X			X		
NOAA/NMFS	Determination of Critical Habitat for Kemp's Ridley and Loggerhead Sea Turtles (50 CFR 226)	Richard B. Roe Dep. Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461	X			X		
NOAA/NMFS	Atlantic Bluefin Tuna--Amendment (50 CFR Par 285, Subpart B)	Bruce L. Freeman Fishery Biologist, Fisheries Mgmt. Div. (617) 281-3600	X			X		

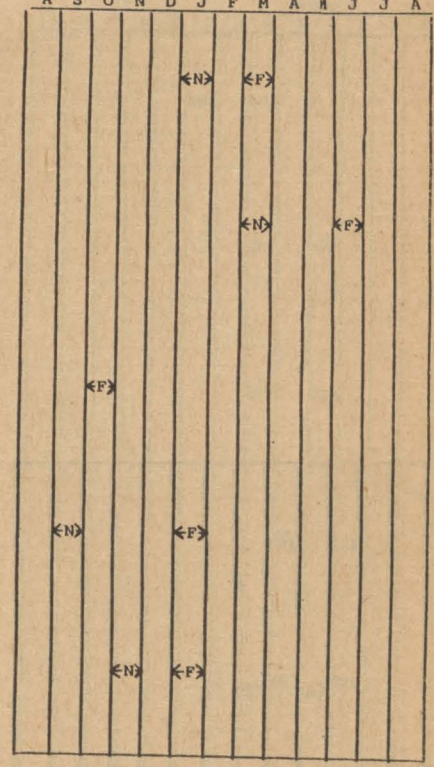
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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Designation of Critical Habitat for the Hawaiian Monk Seal (50 CFR Part 226)	Gerald V. Howard Regional Dir., Southwest Region (213) 548-2575	X			X		
NOAA/NMFS	Regulation Declaring Restricted Fishing Areas--Port Canaveral and Other Areas (50 CFR Parts 222 and 227)	Richard B. Roe Dep. Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461	X			X		
NOAA/NMFS	Fish and Wild Life Coordination Act: Uniform Procedures for Compliance	Kenneth R. Roberts Act. Dir., Ofc. of Habitat Protection (202) 634-7490	X				X	
NOAA/NMFS	Atlantic Surf Clam and Ocean Quahog Fisheries (50 CFR Part 652)	Allen E. Peterson, Jr. Regional Dir., Northeast Region (617) 281-3600	X			X		
NOAA/NMFS	Precious Coral Fishery Management Plan (Western Pacific)	Gerald V. Howard Regional Dir., Southwest Region (213) 548-2575	X			X		

Anticipated Date of Regulatory Action (A=ANPRM, N=NPRM, I=Interim, F=Final)*



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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown	Anticipated Date of Regulatory Action (A=ANPRM, N=NPRM, I=Interim, F=Final)*
NOAA/NMFS	Trawl Fisheries of Washington, Oregon, and California Preliminary Fishery Management Plan or Washington, Oregon, and California Groundfish Fishery Management Plan, if in place	Donald R. Johnson Regional Dir., Northwest Region (206) 442-7575	X			X			1979: A S O N D; 1980: J F M A M J J A — N: M; F: M, M
NOAA/NMFS	Fishery Management Plan for the Atlantic Billfishes: White Marlin, Blue Marlin, Sailfish, and Spearfish	William H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X			N: M; F: M, J
NOAA/NMFS	Reef Fish Resources of the Gulf of Mexico Fishery Management Plan	Willaim H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X			N: J; F: M
NOAA/NMFS	Fishery Management Plan for the Spiny Lobster Fishery of Puerto Rico and the Virgin Islands	William H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X			N: M; F: M
NOAA/NMFS	Fishery Management Plan for Coral and Coral Resources	William H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X			N: A; F: J

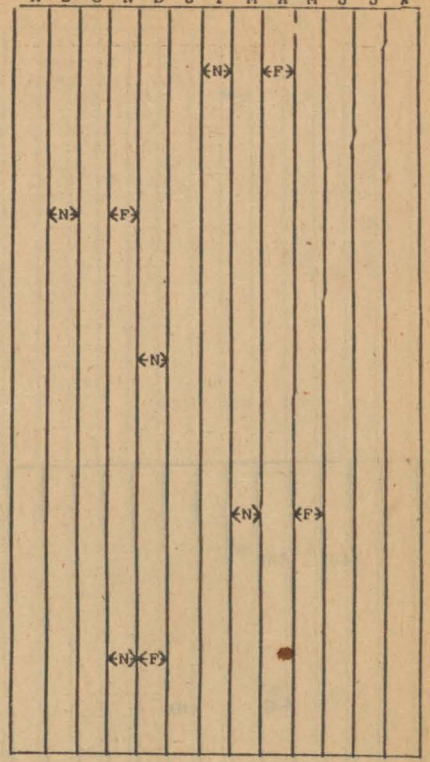
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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown	Anticipated Date of Regulatory Action (A=ANPRM, N=NPRM, I=Interim, F=Final)*
NOAA/NMFS	Fishery Management Plan for the Spiny Lobster Resource (South Atlantic and Gulf of Mexico)	William H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X			1979: D; 1980: J (N), F (F)
NOAA/NMFS	Coastal Migratory Pelagic Fishery Management Plan	William H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X			1980: F (N), M (F)
NOAA/NMFS	Fishery Management Plan for Sharks and Other Elasmobranchs	William H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X			1980: F (N), M (F)
NOAA/NMFS	Jack Mackerel Fishery Management Plan	Gerald V. Howard Regional Dir., Southwest Region (213) 548-2575	X			X			1979: D (N); 1980: A (F)
NOAA/NMFS	Spiny Lobster Fishery Management Plan (Western Pacific)	Gerald V. Howard Regional Dir., Southwest Region (213) 548-2575	X			X			1980: A (N), M (F)

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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico	William H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X		
NOAA/NMFS	Bering Sea and Aleutian Islands Groundfish Fishery Management Plan	Philip Chitwood Chief, Fisheries Mgmt. Operations Br., Alaska Region (907) 586-7229	X			X		
NOAA/NMFS	Amendments to Regulations to Control the Incidental Take of Porpoise in the Yellowfin Tuna Purse Seine Fishery	Richard B. Roe Dep. Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461	X			X		
NOAA/NMFS	Washington, Oregon, and California Groundfish Fishery Management Plan	Donald R. Johnson Regional Dir., Northwest Region (206) 442-7575	X			X		
NOAA/NMFS	Atlantic Billfishes and Sharks Preliminary Fishery Management Plan (Amendment)	William H. Stevenson Regional Dir., Southeast Region (813) 893-3141	X			X		

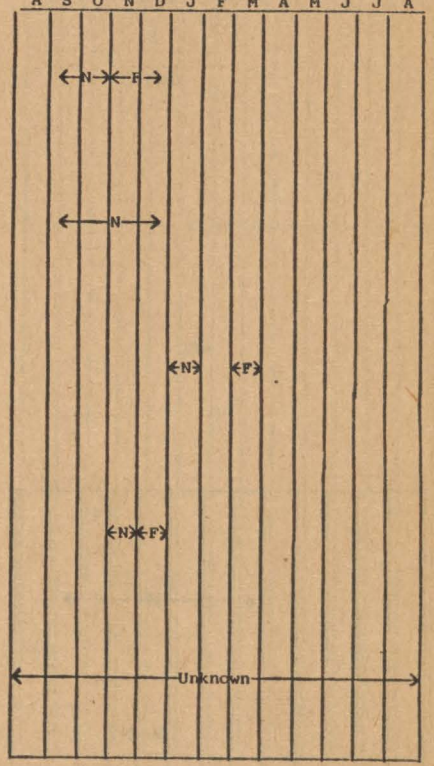
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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Guidelines for Development of Fishery Management Plans Regulations (50 CFR Part 602)	Denton R. Moore Act. Chief, Permits & Regulations Div. (202) 634-7432	X				X	
NOAA/NMFS	Fishery Management Plan for Atlantic Herring Fishery (Amendment) (50 CFR Part 653)	Allen E. Peterson, Jr. Regional Dir., North-east Region (617) 281-3600	X			X		
NOAA/NMFS	Whaling (50 CFR Part 230)	Richard B. Roe Dep. Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461	X					X
NOAA/NMFS	Atlantic Mackerel Preliminary Fishery Management Plan	Robert W. Hanks Dep. Regional Dir., Northeast Region (617) 281-3600			X			X
NOAA/NMFS	Bering Sea Sablefish Preliminary Fishery Management Plan	Harry L. Rietze Dir., Alaska Region (907) 586-7221			X			X

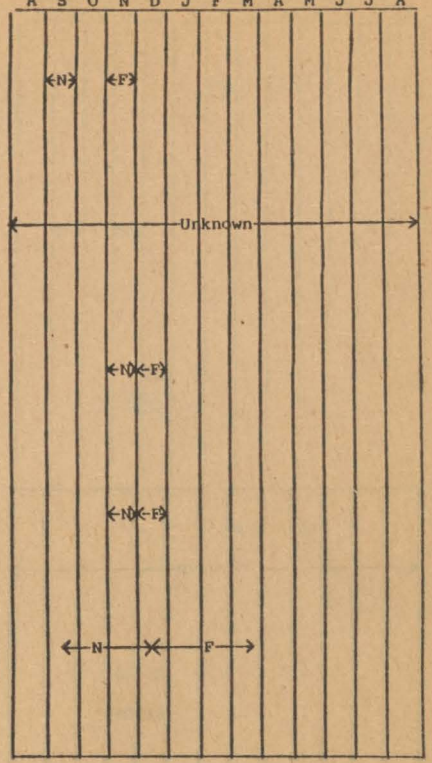
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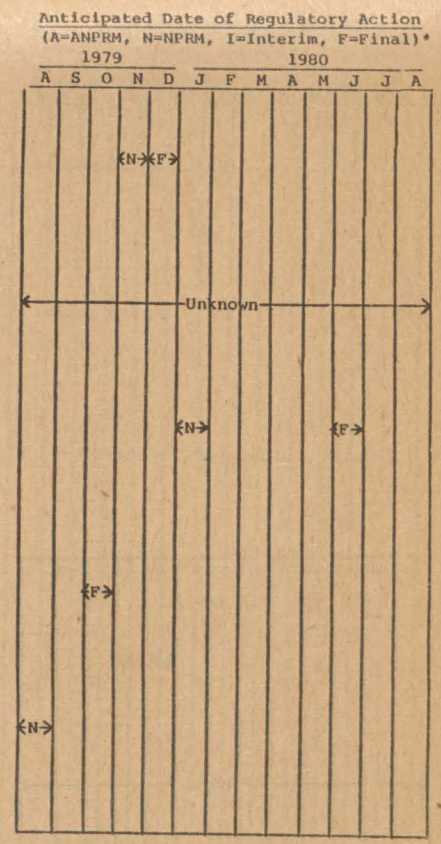
Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Bering Sea Snail Preliminary Fishery Management Plan Regulations	Philip Chitwood Chief, Fisheries Mgmt. Operations Br., Alaska Region (907) 586-7229			X			X
NOAA/NMFS	Foreign Fishing Regulations (Amendment to Foreign Fee Schedule) (50 CFR Part 611, Subpart B)	Denton R. Moore Act. Chief, Regulations & Permits Div. (202) 634-7432			X			X
NOAA/NMFS	Foreign Fishing Regulations (for Fishery Conservation Zone)	Denton R. Moore Act. Chief, Regulations & Permits Div. (202) 634-7432			X			X
NOAA/NMFS	Foreign Trawl Fisheries of Northwestern Atlantic Preliminary Fishery Management Plan	Robert W. Hanks Dep. Regional Dir., Northeast Region (617) 281-3600			X			X
NOAA/NMFS	Gulf of Alaska Groundfish Fishery Management Plan Regulations	Philip Chitwood Chief, Fisheries Mgmt. Operations Br., Alaska Region (907) 586-7229		X			X	

Anticipated Date of Regulatory Action (A=ANPRM, N=NPRM, I=Interim, F=Final)*



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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Hake Preliminary Fishery Management Plan	Robert W. Hanks Dep. Regional Dir., Northeast Region (617) 281-3600			X			X
NOAA/NMFS	Listing of the Guadalupe Fur Seal as an Endangered Species (50 CFR Parts 17 and 222)	R. V. Miller Research Program Mgr. (202) 634-7461			X			X
NOAA/NMFS	Determination of Critical Habitat for Endangered and Threatened Species of Sea Turtles in Mosquito Lagoon, Florida (50 CFR Part 226)	Richard B. Roe Dep. Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461			X			X
NOAA/NMFS	Endangered Species Exemption (50 CFR Part 403)	William Aron Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461		X			X	
NOAA/NMFS	Section 7 of Endangered Species Act: 1/ Interagency Cooperation (50 CFR Part 402)	Willaim Aron Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461		X			X	



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1/ Shown as "Significant" regulation in "Amendment to Semi-Annual Agenda of Regulations," 44 FR 25355, April 30, 1979. NMFS has now determined that the pending regulation is not significant.

Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Fishing Vessel and Gear Damage Compensation Fund	Michael L. Grable Chief, Financial Services Div. (202) 634-7496		X			X	
NOAA/NMFS	Fishermen's Contingency Fund	Michael L. Grable Chief, Financial Services Div. (202) 634-7496		X			X	
NOAA/NMFS	Scientific Research and Public Display Permit Regulations (50 CFR Part 223)	R. B. Brumsted Permit Program Mgr. Ofc. of Marine Mammal & Endangered Species (202) 634-7416		X			X	
NOAA/NMFS	Termination of Utility Services--Pribilof Islands (50 CFR Part 215)	Walter Kirkness Dir., Pribilof Islands' Program (206) 442-7777		X			X	
NOAA/NMFS	Squid Fishery of the Northwest Atlantic Preliminary Fishery Management Plan	Robert W. Hanks Dep. Regional Dir., Northeast Region (617) 281-3600			X			X

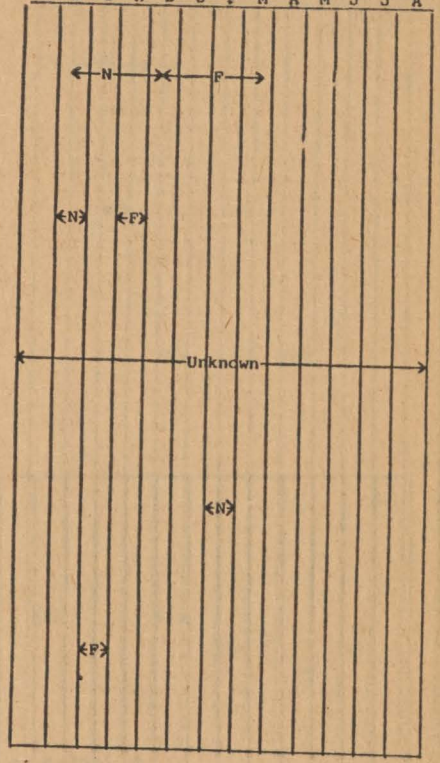
Anticipated Date of Regulatory Action (A=ANPRM, N=NPRM, I=Interim, F=Final)*



* A=Advanced Notice of Proposed Rulemaking; N=Notice of Proposed Rulemaking; I=Interim Rule; F=Final Rule.

Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Tanner Crab Fishery Management Plan Regulations (Alaska)	Philip Chitwood Chief, Fisheries Mgmt. Operations Br., Alaska Region (907) 586-7229			X			X
NOAA/NMFS	Trawl and Herring Gillnet Fishing in the Eastern Bering Sea Preliminary Fishery Management Plan	Philip Chitwood Chief, Fisheries Mgmt. Operations Br., Alaska Region (907) 586-7229	X			X		
NOAA/NMFS	Amendments of U.S. Yellowfin Tuna Regulations for the Atlantic and Pacific Oceans	Gerald V. Howard Regional Dir., Southwest Region (213) 548-2575			X			X
NOAA/NMFS	Fishery Management Plan for Pollock Fishery in the Atlantic Ocean	Allen E. Peterson, Jr. Regional Dir., Northeast Region (617) 281-3600			X			X
NOAA/NMFS	Whaling (50 CFR Part 351)	William Aron Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461			X		X	

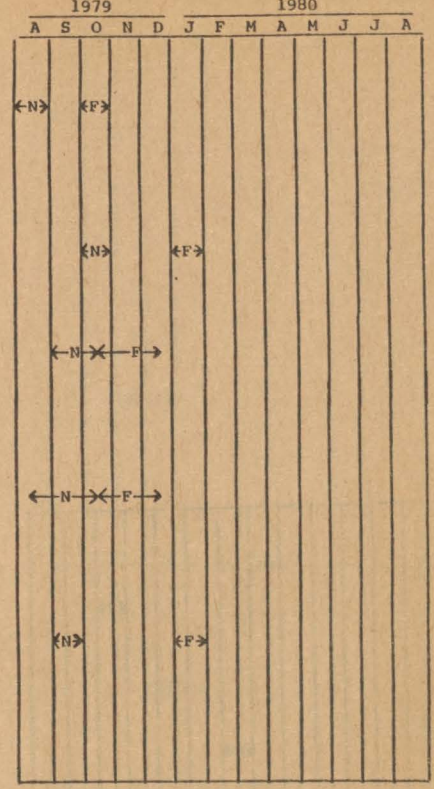
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* A=Advanced Notice of Proposed Rulemaking; N=Notice of Proposed Rulemaking; I=Interim Rule; F=Final Rule.

Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Gulf of Alaska Groundfish Regulations: Extension of Regulations to November 1, 1980	Philip Chitwood Chief, Fisheries Mgmt. Operations Br., Alaska Region (907) 586-7229	X				X	
NOAA/NMFS	Fishery Management Plan for Atlantic Groundfish--Cod, Haddock, Yellowtail, and Flounder (50 CFR Part 651)	Allen E. Peterson, Jr. Regional Dir., Northeast Region (617) 281-3600		X				X
NOAA/NMFS	Technical Amendments to Fishing Vessel Obligation Guarantee Program Procedures	Michael L. Grable Chief, Financial Services Div. (202) 634-7496	X				X	
NOAA/NMFS	Financial Aid Program Procedures (Amendment) (50 CFR Part 251)	Michael L. Grable Chief, Financial Services Div. (202) 634-7496	X				X	
NOAA/NMFS	Proposed Rule for Revising the Lists of Endangered and Threatened Wildlife and Plants and Designating Species' Critical Habitat (50 CFR Parts 17 and 405)	Richard B. Roe Dep. Dir., Ofc. of Marine Mammals & Endangered Species (202) 634-7461	X				X	

Anticipated Date of Regulatory Action (A=ANPRM, N=NPRM, I=Interim, F=Final)*



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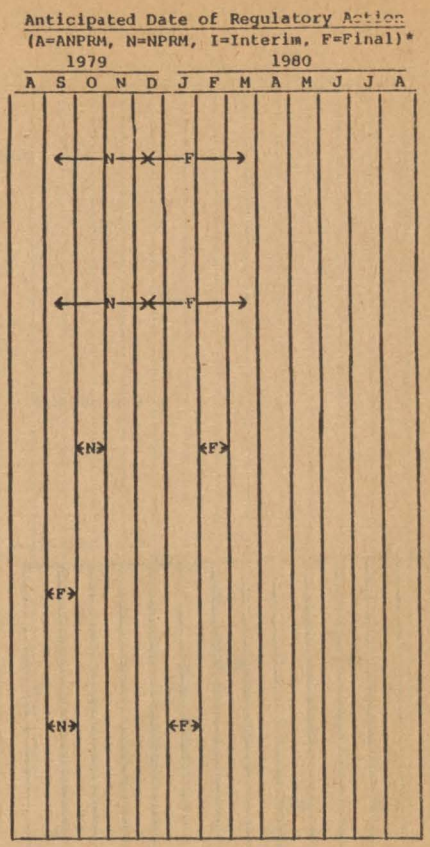
Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown	Anticipated Date of Regulatory Action (A=ANPRM, N=NPRM, I=Interim, F=Final)*
NOAA/OCZM	Final Regulations for Key Largo Coral Reef Marine Sanctuary	Jo Ann L. Chandler Act. Dir., Sanctuary Programs Ofc. (202) 634-4236	X				X		N, F
NOAA/OCZM	Regulations for Proposed Georges Bank Marine Sanctuary (Tentative)	Jo Ann L. Chandler Act. Dir., Sanctuary Programs Ofc. (202) 634-4236	X					X	N, F
NOAA/OCZM	Regulations for Proposed St. Thomas Marine Marine Sanctuary, St. Thomas, Virgin Islands	Jo Ann L. Chandler Act. Dir., Sanctuary Programs Ofc. (202) 634-4236	X				X		N, F
NOAA/OCZM	Regulations for Proposed Gray's Reef Marine Sanctuary	Jo Ann L. Chandler Act. Dir., Sanctuary Programs Ofc. (202) 634-4236	X				X		N, F
NOAA/OCZM	Regulations for Proposed Looe Key Marine Sanctuary	Jo Ann L. Chandler Act. Dir., Sanctuary Programs Ofc. (202) 634-4236	X				X		N, F

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* A=Advanced Notice of Proposed Rulemaking; N=Notice of Proposed Rulemaking; I=Interim Rule; F=Final Rule.

Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/OCZM	Regulations for Proposed Monterey Bay Marine Sanctuary	Jo Ann L. Chandler Act. Dir., Sanctuary Programs Ofc. (202) 634-4236	X				X	
NOAA/OCZM	Regulations for Proposed Point Reyes/ Farallon Islands Marine Sanctuary	Jo Ann L. Chandler Act. Dir., Sanctuary Programs Ofc. (202) 634-4236	X				X	
NOAA/OCZM	Shorefront Access/Island and Preservation Regulations	Jo Ann L. Chandler Act. Dir., Sanctuary Programs Ofc. (202) 634-4236		X			X	
NOAA/OCZM	Regulations for Proposed Flower Garden Banks Marine Sanctuary	Jo Ann L. Chandler Act. Dir., Sanctuary Programs Ofc. (202) 634-4236	X				X	
NOAA/OCZM	Regulations for Proposed Channel Islands Marine Sanctuary	Jo Ann L. Chandler Act. Dir., Sanctuary Programs Ofc. (202) 634-4236	X			X		

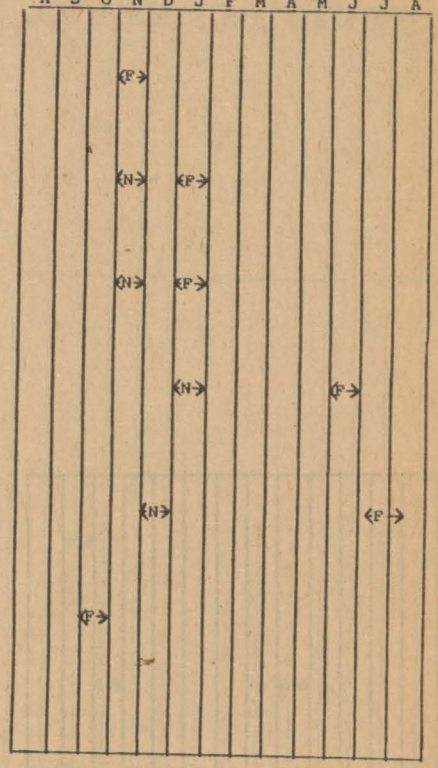
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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
OCE/OSFPS	Standard Metropolitan Statistical Classification--Revised Criteria	Suzann K. Evinger Research Analyst (202) 673-7965	X				X	
OMBE	OMBE Financial Assistance Awards	John Smith Dep. Chief Counsel (202) 377-5641	X				X	
ORD	Regional Development Commissions (13 CFR Chapter V)	Jane D. Lollis Chief Counsel (202) 377-5203	X			X		
S&T/PTO	Interferences; Motions Before the Primary Examiner (37 CFR 1.231)	Ian A. Calvert Chr., Bd. of Patent Interferences (703) 557-3625	X				X	
S&T/PTO	Amending Patent Application to Correct Inventorship (37 CFR 1.45)	William Feldman Dep. Asst. Commissioner for Patents (703) 557-2012	X				X	
S&T/PTO	Deposit of Computer Program Listings (37 CFR 1.21, 1.96)	Louis O. Maassel Ed., Manual of Patent Examining Procedure (703) 557-3070	X				X	

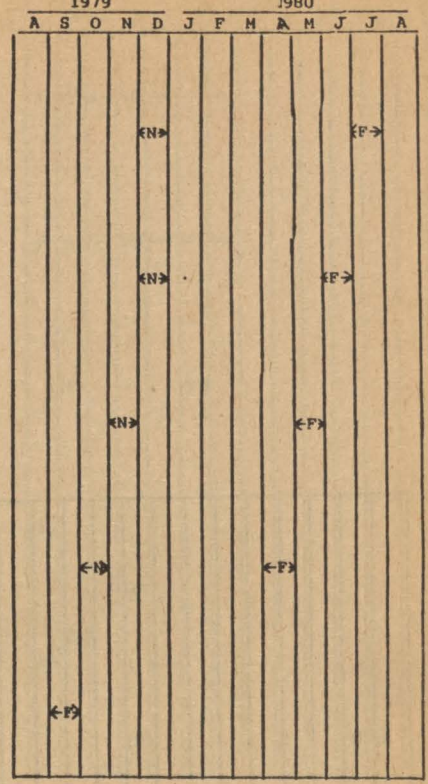
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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
S&T/PTO	Prosecution of Patent Applications After Final Rejection (37 CFR 1.113, 1.116)	Louis O. Maassel Editor, Manual of Patent Examining Procedure (703) 557-3070	X				X	
S&T/PTO	Examination of Reissue Applications (37 CFR 1.176)	R. F. Burnett Spec. Asst. to Asst. Commissioner For Patents (703) 557-3054	X				X	
S&T/PTO	Recording Interest In Patents, Trademarks, Patent Applications and Trademark Applications (37 CFR 1.331-334, 2.185-187)	Herbert C. Wamsley Exec. Asst. to Commissioner (703) 557-3071	X				X	
S&T/PTO	Professional Conduct Of and Advertising By Persons Registered To Practice Before the PTO (37 CFR 1.344, 1.345, 2.13, 2.14)	Harry I. Moatz Commissioner of Patents and Trademarks (703) 557-2238	X				X	
S&T/PTO	Compulsory Counterclaims in Trademark Opposition and Cancellation Proceedings (37 CFR 2.106, 2.114)	David J. Kera, Member, Trademark Trial & Appeal Board (703) 557-3551	X				X	

Anticipated Date of Regulatory Action (A=ANPRM, N=NPRM, I=Interim, F=Final)*



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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown	Anticipated Date of Regulatory Action (A=ANPRM, N=NPRM, I=Interim, F=Final)*
S&T/PTO	Patent Application Oath or Declaration Requirement (37 CFR 1.65, 3.18, 3.18(a))	Louis O. Maassel Editor, Manual of Patent Examining Procedure (703) 557-3070	X				X		F
S&T/PTO	Advisory Opinions By the PTO on the Validity of Patents (37 CFR Part 1)	Herbert C. Wamsley Exec. Asst. to Commissioner (703) 557-3071	X				X		Unknown

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* A=Advanced Notice of Proposed Rulemaking; N=Notice of Proposed Rulemaking; I=Interim Rule; F=Final Rule.

SCHEDULE B - REGULATIONS SELECTED FOR REVIEW BY DOC DEPARTMENTAL UNITS
YEAR ENDING AUGUST 31, 1980

TITLE OF REGULATION	RESPONSIBLE OPERATING UNIT	LEGAL AUTHORITY	PROPOSED DATE FOR START OF REVIEW	TARGET DATE FOR COMPLETION OF REVIEW	CONTACT PERSON & TELEPHONE NO.
*Business Development Program (13 CFR Part 306)	EDA	42 U.S.C. 3142, 3211	Fall 1979**	Winter 1979	Mr. James F. Marten Assistant Chief Counsel (202) 377-5441
*Export Administration Regulations (15 CFR Parts 368-399)	ITA	50 U.S.C. App. 2401 et seq	Under Review**	May 1981	Mr. Kent Knowles, Director Office of Export Administration (202) 377-2118
China Trade Act Corporations (15 CFR Part 363)	ITA	15 U.S.C. 141-162	Not Determined	Not Determined	Mr. Harry R. Stringer, Jr. Registrar (202) 377-2210
Defense Materials System Order 1: Iron and Steel (32A CFR Part 631)	ITA	50 U.S.C. App. 2061 et seq. Executive Order 10480	Under Review	November 1979	Mr. John A. Richards, Deputy Director, Office of Industrial Mobilization (202) 377-4506
Defense Materials System Order 2: Nickel Alloys (32A CFR Part 632)	ITA	50 U.S.C. App. 2061 et seq. Executive Order 10480	October 1979	February 1980	Mr. John A. Richards, Deputy Director, Office of Industrial Mobilization (202) 377-4506
Defense Materials System Order 3: Aluminum (32A CFR Part 633)	ITA	50 U.S.C. App. 2061 et seq. Executive Order 10480	September 1979	March 1980	Mr. John A. Richards, Deputy Director, Office of Industrial Mobilization (202) 377-4506
Defense Materials System Order 4: Copper and Copper - Base Alloys (32A CFR Part 634)	ITA	50 U.S.C. App. 2061 et seq. Executive Order 10480	Under Review	December 1979	Mr. John A. Richards, Deputy Director, Office of Industrial Mobilization (202) 377-4506
DPS Regulation 2: Operations of the Priorities and Allocations System between Canada and the United States (32A CFR Part 652)	ITA	50 U.S.C. App. 2061 et seq. Executive Order 10480	Under Review	September 1979	Mr. John A. Richards, Deputy Director, Office of Industrial Mobilization (202) 377-4506
DPS Regulation 3: Compliance and Enforcement Procedures (32A CFR Part 653)	ITA	50 U.S.C. App. 2061 et seq. Executive Order 10480	Under Review	September 1979	Mr. John A. Richards, Deputy Director, Office of Industrial Mobilization (202) 377-4506
General Regulations Governing Foreign Trade Zones in the United States, with Rules of Procedure (15 CFR Part 400)	ITA	19 U.S.C. 81a-81u	Under Review	October 1980	Mr. John J. DaPonte Executive Secretary (202) 377-2862

* Regulation deemed significant by DOC operating unit

** Regulatory analysis to be required

TITLE OF REGULATION	RESPONSIBLE OPERATING UNIT	LEGAL AUTHORITY	PROPOSED DATE FOR START OF REVIEW	TARGET DATE FOR COMPLETION OF REVIEW	CONTACT PERSON & TELEPHONE NO.
Joint Export Associations (15 CFR Part 366)	ITA	15 U.S.C. 1512	Summer 1979	Spring 1980	Mr. Jonathan C. Menes Director, Office of Export Planning and Evaluation (202) 377-5055
*Operating Differential Subsidy Rates for Liner Vessels - New Part 1	MARAD	46 U.S.C. 1114(b)	Summer 1979	Winter 1979	Mr. Frederick R. Larson Director, Office of Ship Operating Costs (202) 377-5532
*Operating Differential Subsidy (ODS) for Bulk Cargo Vessels Engaged in Worldwide Service (46 CFR Part 252)	MARAD	46 U.S.C. 1114(b)	Summer 1979	Spring 1980	Mr. Frederick R. Larson Director, Office of Ship Operating Costs (202) 377-5532
Administration of Pribilof Islands (Marine Mammals) (50 CFR Part 215, Subpart c)	NOAA/NMFS	Fur Seal Act of 1966 (80 Stat. 1091) (16 U.S.C. 1151-1187) (P.L. 89-702)	Not Determined	Not Determined	Mr. Walter Kirkness Director, Pribilof Islands Program (206) 442-7776
Uniform Standards of Organization Practices, and Procedures-Regional Fishery Management Councils (50 CFR Part 601, Subpart C)	NOAA/NMFS	P.L. 95-265, 16 U.S.C. 1852, 1854, 1855	Spring 1979	Winter 1979	Mr. Winfred H. Meibohm Executive Director (206) 634-7292
U. S. Standards for Grades of Frozen Raw Headless Shrimp (50 CFR Part 265, Subpart A)	NOAA/NMFS	7 U.S.C. 1621-1630	September 1979	September 1980	Mr. James R. Brooker Staff Specialist, Seafood Quality and Inspection Division (202) 634-7458
U. S. Standards for Grades of Fried Fish Sticks and Fried Fish Portions	NOAA/NMFS	7 U.S.C. 1621-1630	August 1979	September 1979	Mr. James R. Brooker Staff Specialist, Seafood Quality and Inspection Division (202) 634-7458
Estaurine Sanctuary Regulations	NOAA/OCZM	16 U.S.C. 1461	February 1980	May 1980	Ms. JoAnn Chandler, Acting Director Sanctuary Programs Office (202) 634-4236
Special Services and Studies by the Bureau of the Census (15 CFR 50)	OCE/Census	13 U.S.C. 8	Under Review	December 1979	Mr. George E. Hall Associate Director for Demographic Fields (301) 763-5167
Public Information (15 CFR Part 60)	OCE/Census	5 U.S.C. 552	Under Review	December 1979	Mr. James D. Lincoln Associate Director for Administration (301) 763-7980

* Regulation deemed significant by DOC operating unit

** Regulatory analysis to be required

REGULATIONS SELECTED FOR REVIEW BY DOC DEPARTMENTAL UNITS
YEAR ENDING AUGUST 31, 1980

TITLE OF REGULATION	RESPONSIBLE OPERATING UNIT	LEGAL AUTHORITY	PROPOSED DATE FOR START OF REVIEW	TARGET DATE FOR COMPLETION OF REVIEW	CONTACT PERSON & TELEPHONE NO.
Cutoff Dates for Recognition of Boundary Changes for the 1980 Census (15 CFR Part 70)	OCE/Census	13 U.S.C. 4	Under Review	December 1979	Mr. George E. Hall Associate Director for Demographic Fields (301) 763-5167
Furnishing Personal Census Data from Census of Population Schedules (15 CFR Part 80)	OCE/Census	13 U.S.C. 8	Under Review	December 1979	Mr. James D. Lincoln Associate Director for Administration (301) 763-7980
*Inter Partes Proceedings and Procedures before the Trademark Trial and Appeal Board (37 CFR 2.91 - 2.136 and 2.27(d)	S&T/PTO	15 U.S.C. 1123	Under Review	October 1979	Mr. David J. Kera, Member Trademark Trial and Appeal Board (703) 557-3551
*Appeals to the Trademark Trial and Appeal Board (37 CFR 2.141, 2.142 and 2.64)	S&T/PTO	15 U.S.C. 1123	Under Review	October 1979	Mr. Saul Lefkowitz, Chairman Trademark Trial and Appeal Board (703) 557-3551
*Secrecy of Certain Inventions and Licenses to File Applications in Foreign Countries (37 CFR Part 5)	S&T/PTO	35 U.S.C. 6, 181-187 and 188	Under Review	January 1980	Mr. C. D. Quarforth, Director Special Laws Administration Group (703) 557-3877
*Petitions to the Commissioner in Trademark Cases (37 CFR 2.146-2.148, 2.64, 2.65 and 2.184)	S&T/PTO	15 U.S.C. 1123	Under Review	October 1979	Mr. Sidney A. Diamond Assistant Commissioner for Trademarks (703) 557-3061
*Request for Identifiable Records (37 CFR 1.15)	S&T/PTO	35 U.S.C. 6	August 1979	November 1979	Mr. John W. Dewhirst Associate Solicitor (703) 557-3542
Procedural Regulation Setting Forth the Criteria for Applications for Federal Recognition of International Expositions (15 CFR 1202)	USTS	22 U.S.C. 2801	Fall 1979	December 1979	Mr. Richard Henry Director, Exposition Staff (202) 377-5708

* Regulation deemed significant by DOC operating unit

** Regulatory analysis to be required

Schedule C -- Regulations Deleted From Prior DOC Semi-Annual Agenda[1]

Department Unit	Title of Regulation	Prior Agenda Listing**	Reason for Deletion from Agenda
EDA	Designation of Areas (13 CFR Part 302)*	UC	Published in the Federal Register in final form on July 13, 1979, at 44 FR 40881
EDA	Special Economic Development and Adjustment Assistance Grants (13 CFR Part 308)*	UC	Postponed pending congressional action on amendments to the Public Works and Economic Development Act.
EDA	Supplementary Grants, Public Works and Development Facilities Programs (13 CFR 305.5)*	UC	Postponed pending congressional action on amendments to the Public Works and Economic Development Act.
NOAA/NMFS	Pacific Halibut Fisheries Regulations*	UC	Erroneously listed in previous agenda. Regulations are promulgated by International Convention and are not promulgated by the NMFS
NOAA/NMFS	U. S. Standards for Grades of Frozen Fried Scallops (50 CFR Part 266, Subpart B)	UR	Revised and published in Federal Register on June 6, 1979, at 44 FR 32392
NOAA/NMFS	Regulated Commercial Fisheries (50 CFR Part 240)	UR	Revocation of regulation was published in the Federal Register on April 19, 1979, at 44 FR 23236
NOAA/NMFS	Salmon Fisheries (50 CFR Part 241)	UR	Revocation of regulation was published in the Federal Register on April 19, 1979, at 44 FR 23236

[1]Prior Agenda refers to DOC's first agenda which was published on March 7, 1979 (44 FR 12562), and NOAA's addendum (to the Agenda) of April 30, 1979 (44 FR 25354).

Schedule C -- Regulations Deleted From Prior DOC
Semi-Annual Agenda

Department Unit	Title of Regulation	Prior Agenda Listing**	Reason for Deletion from Agenda
NOAA/NMFS	Continental Shelf Fisheries Resource (50 CFR Part 295)	UR	Revocation of regulation was published in the Federal Register on April 19, 1979, at 44 FR 23236
NOAA/NMFS	Field Organization of the National Marine Fisheries Service (50 CFR Part 201)	UR	Revocation of regulation was published in the Federal Register on April 19, 1979, at 44 FR 23236
NOAA/NMFS	Offshore Shrimp Fisheries Act (50 CFR Part 245)	UR	Revocation of regulation was published in the Federal Register on April 19, 1979, at 44 FR 23236
NOAA/NMFS	Fraser River Sockeye and Pink Salmon Fishery	UC	A legal determination was made that this regulation is exempted from E. O. 12044 because of the "International Convention Between the United States and Canada for the Protection, Preservation and Extension of the Sockeye Salmon Fishery of the Fraser River System"
NOAA/OCZM	General Marine Sanctuary Regulations	UC	Regulations published in the Federal Register on July 31, 1979, at 44 FR 44831
NTIA	Public Telecommunications and Facilities Program (New)*	UC	Published in the Federal Register in final form on May 29, 1979, at 44 FR 30898
OCE/BEA	Annual Reporting of Revenues for Carrying Imports to, and Expenditures in, the United States of Shipping and Air Transport Operators of Foreign Nationality (15 CFR Part 802)	UR	Review completed. No changes contemplated

Department Unit	Title of Regulation	Prior Agenda Listing**	Reason for Deletion from Agenda
OCE/BEA	Reports on International Transactions In Royalties and Fees With Unaffiliated Foreign Residents (15 CFR Part 803)	UR	Review completed. No changes contemplated
OCE/BEA	Foreign Direct Investment in the United States Survey Regulations (15 CFR Part 804)	UR	Review completed. Operating Unit plans to publish notice in the Federal Register in the near future withdrawing regulations
OCE/BEA	Preliminary Survey of International Leasing Transactions in 1975 (15 CFR Part 805)	UR	Review completed. Operating Unit plans to publish notice in the Federal Register in the near future withdrawing regulations
OCE/BEA	Direct Investment Survey (15 CFR Part 806)	UR	Review completed. No changes contemplated
OCE/BEA	Public Information[2] (15 CFR 807)	UR	Review completed. No changes contemplated
OCE/CENSUS	Certain Population and Per Capita Income Estimates, Challenge Procedures (15 CFR Part 90)*	UC	Published in the Federal Register in final form on April 6, 1979 at 44 FR 20646
OCE/Census	Foreign Trade Statute (15 CFR Part 30)	UR	Review completed. Final changes published in Federal Register on July 3, 1979, at 44 FR 38832
OCE/CENSUS	Seal (15 CFR Part 20)	UR	Review completed. No changes contemplated
OCE/CENSUS	Training of Foreign Participants In Census Procedures and General Statistics (15 CFR Part 40)	UR	Review completed. No changes contemplated

[2]This regulation was erroneously listed as a significant regulation in DOC's first agenda. The regulation was determined "not significant" by the Bureau of Economic Analysis.

Schedule C -- Regulations Deleted From Prior DOC
Semi-Annual Agenda

Department Unit	Title of Regulation	Prior Agenda Listing**	Reason for Deletion from Agenda
S&T/OEA	Implementing the National Environmental Policy Act (Revision of Existing DAO 216-6)	UC	A legal determination was made that the proposed revised Department Administrative Order is a matter related to agency management to which DAO 218-7 and E. O. 12044 do not apply. (See 44 FR 12574 for further information)
S&T/OEA	Implementing Procedures for Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions"*	UC	A legal determination was made that the proposed Department Administrative Order implementing these procedures is a matter related to agency management to which DAO 218-7 and E. O. 12044 do not apply (See 44 FR 12574 for further information)
S&T/NBS	Barrels and Other Containers for Lime (15 CFR Part 240)*	UR	The review of the regulation has been completed, and the results of that review are now under consideration. This regulation is mandated by statute and its rescission, if approved by the operating unit, must await the repeal of the statute by Congress
S&T/NBS	Barrels for Fruits, Vegetables and Other Dry Commodities, and for Cranberries (15 CFR Part 241)*	UR	The review of the regulation has been completed, and the results of that review are now under consideration. This regulation is mandated by statute and its rescission, if approved by the operating unit, must await the repeal of the statute by Congress

Department Unit	Title of Regulation	Prior Agenda Listing**	Reason for Deletion from Agenda
S&T/PTO	Joinder of Inventions in One Application*	UC	This item was dropped because it was determined that the prosecution and examination of more than one invention simultaneously would be less efficient than the present procedure and the issuance of patents would be delayed
USFA	Public Safety Awards to Public Safety Officers (45 CFR Part 2000)	UR	The United States Fire Administration is no longer located in DOC. This regulation is therefore being deleted from DOC's Agenda of Regulations
USFA	Reimbursement for Costs of Firefighting on Federal Property (45 CFR Part 2010)	UR	The United States Fire Administration is no longer located in DOC. This regulation is therefore being deleted from DOC's Agenda of Regulations
USTS	Procedural Regulations Governing Applications of States, Cities, and Non-Profit Organizations for Matching Grants to Promote International Tourism to the United States (15 CFR 1200)	UR	The Administration's decision with respect to FY 1980 authorization and appropriations for this Operating Unit will likely result in this program being terminated shortly

*Regulation was deemed significant by DOC Operating Unit.

**Regulations listed in prior semi-annual Agenda(s) as under consideration (UC) or under review (UR).

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Appendix.—Complete Entries of Significant Regulations in DOC's Semi-Annual Agenda of Regulations

DOC Operating Unit

Office of the Controller, Office of the Assistant Secretary for Administration.

Title of Regulation

Department of Commerce Grants: Disputes and Appeals Procedures; (15 CFR Part 18).

(a) *Description and Need for Regulation:* This part established Departmental disputes and appeals procedures for certain post-award matters which arise under grants and cooperative agreements awarded by the Department of Commerce. Until now, the rights of Commerce recipients of financial assistance have varied significantly depending upon the operating unit making the award. The majority of disputes have been negotiated informally and no appeals procedures have existed at the Departmental level. The objective of these regulations is to set forth consistent procedures to ensure that Commerce recipients of financial assistance are afforded uniform procedural rights with respect to disputes and appeals concerning grants activities.

(b) *Legal Authority:* 5 U.S.C. 301.

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (September 1979).

(ii) In final form (November 1979).

(e) *Tentative Plan for Obtaining Public Comments:* On October 6, 1978, an open meeting with Public Interest Groups was held at the Department of Commerce, Washington, D.C., to obtain comments on grants-related matters. A notice announcing the time and place of the meeting was published in the **Federal Register.**

In September 1979, the proposed Departmental Administrative Order on Grants Administration, as well as the proposed regulations on "Department of Commerce Grants: Disputes and Appeals Procedures", will be published in the **Federal Register** to give the public the opportunity to comment on the content of these two documents.

(f) *Major Issues Surrounding Proposed Regulatory Action:* The proposed regulations on grants will be published in the **Federal Register** in conjunction with a proposed Departmental Administrative Order (DAO) on Grants Administration. Part 18 is directed toward the general public and specifically identifies those determinations which are subject to the proposed Departmental disputes and appeals procedures. These regulations and the DAO resulted from a study of Department of Commerce grants administration which addressed major issues such as (1) the fulfillment of the Department's obligations to the public in awarding and administering financial assistance; (2) the responsibilities and duties of officials involved in grants administration; (3) financial management practices in the Department; and (4) the establishment of central grants units at the Departmental and operating unit levels.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X, unknown)

(2) Other Documents Available:

Executive Summary of Grants Administration Task Force Report.
Department of Commerce Grants Administration Task Force Report
Departmental Administrative Order on Grants Administration.

(h) *Agency Contact:* Sonya J. Gilliam, Program Analyst, Office of the Controller, Room 6827, Main Commerce Building 377–4299.

DOC Operating Unit

Marad.

Title of Regulation

Merchant Marine Training (46 CFR Part 310).

(a) *Description and Need for Regulation:* The Maritime Administration (Marad) is responsible for the administration of the U.S. Merchant Marine Academy, the aid programs to State merchant marine academics, and the U.S. Maritime Service, a voluntary maritime training organization.

The regulations relevant to these programs have not always been amended timely to reflect policy and program developments. The need to bring the regulatory framework up to date is particularly great for the Maritime Service, since the regulations have not been revised since the Service was significantly restructured in the 1950's. The Select Subcommittee of the House Merchant Marine and Fisheries Committee, after reviewing these programs, recommended that the regulations be amended to reflect current practice and legal requirements. The draft regulations are intended to implement these recommendations.

(b) *Legal Authority:* Sec 204(b) and 216, Merchant Marine Act, 1936, as amended (46 USC 1114(b) and 1126); P.L. 85–672 (46 USC 1381–1388).

(c) Importance of Regulation:

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register.**

(i) In proposed form (*September 1979*).

(ii) In final form (*December 1979*).

(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in **Federal Register;** release of information to *Journal of Commerce and* Congressional Information Bureau (maritime industry publication): and notification of opportunity to comment to other selected publications.

(f) *Major Issues Surrounding Proposed Regulatory Action:* Whether procedures adopted by Marad in the area of maritime education and training are consistent with the requirements of applicable statutory authority.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X, unknown); anticipated date of draft analysis (N/A)

(2) Other Documents Available: None.

(h) *Agency Contact:* Kathleen A. Shetler, Manpower Management Officer, Maritime Administration, Office of Maritime Manpower, Washington, D.C. 20230, Tel. (202) 377–5653.

DOC Operating Unit

Marad.

Title of Regulation

Construction-differential subsidy (CDS)—requirements for aid (46 CFR Part 251).

(a) *Description and Need for Regulation:* The Maritime Administration (Marad) makes available construction-differential subsidies (CDS) for shipowners who undertake construction, reconstruction or reconditioning in American shipyards. CDS payments are intended to offset the higher cost of work in American shipyards. It is made available only to qualified shipowners who will place the vessels in the foreign trades of the U.S. Marad has developed over the years many restrictions, requirements and procedures for administering the CDS program. These policies determine who is eligible, the procedures for application, the types of ships which may be built with CDS funds, the conditions of service for CDS built vessels, the level of CDS payments,

and the obligations of both Marad and the vessel owner after construction. These policies have been set forth in a wide range of documents. Some of them have never been formally written down. The proposed regulation would therefore codify these policies without making any substantive change in them. Among the anticipated benefits are (1) clarification of the legal status of the CDS policies and procedures, (2) dissemination of program benefits and requirements, and (3) easing the task of administering the CDS program.

(b) *Legal Authority:* Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X , unknown)

(i) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (*unknown*) [1]

(ii) In final form (*unknown*) [1]

(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in **Federal Register;** and release of information to *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).

(f) *Major Issues Surrounding Proposed Regulatory Action:* The proposed regulations are codifications of existing policies and practices for the CDS program. Therefore, it is not anticipated that any major issues or controversies will develop over them.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X, unknown); anticipated date of draft analysis (N/A).

(2) Other Documents Available: None.

(h) *Agency Contact:* James E. Saari, Attorney-Adviser, Maritime Administration, Office of General Counsel, Washington, D.C. 20230, Tel. (202) 377-2771.

DOC Operating Unit

Marad.

Title of Regulation

Conservative Dividend Policy (46 CFR Part 283).

(a) *Description and Need for Regulation:* The Maritime Administration (Marad) provides operating-differential subsidies (ODS) for the operators of American-flag vessels in the foreign trades to compensate them for the added cost of operating under American registry. ODS recipients are contractually bound to follow a conservative policy on paying dividends to ensure that they have sufficient capital to meet their obligations and finance new vessels at the end of the useful life of subsidized ships. Since almost every ODS recipient also participates in a government mortgage insurance program (Title XI), the dividend policy has an effect on that program as well. Vessel operators have argued that the current dividend policy, especially as it affects "working capital" requirements, is more restrictive than what is necessary to protect the Government's interests. The draft regulations would therefore modify these restrictions.

(b) *Legal Authority:* Sec. 204(b) Merchant Marine Act, 1936, as amended (46 USC 1114(b).)

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) Timetable: Anticipated dates Proposal will appear in **Federal Register:**

(i) In proposed form (*published July 18, 1979*).

(ii) In final form (*November 1979*).

(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in **Federal Register;** and information released to and published by *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).

(f) *Major Issures Surrounding Proposed Regulatory Action:* The major issues are whether the proposed regulation strikes an appropriate balance between the need to provide ODS recipients with sufficient financial flexibility, and the interest of the Government in the long term financial stability of the operating companies, and whether the balance struck in the proposed regulation also meets the needs of the title XI program.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X, unknown); anticipated date of draft analysis (N/A).

(2) Other Documents Available: None.

(h) *Agency Contact:* Murray Bloom, Examiner, Maritime Administration, Office of Subsidy Contracts, Washington, D.C. 20230, Tel. (202) 377-4631.

DOC Operating Unit

Marad.

Title of Regulations

Rules of Practice and Procedure; Procedure for Hearing on Operating-Differential Subsidy Applications; Applications for subsidies and other direct financial aid. (46 CFR Parts 201, 208 (new) and 251.)

(a) *Description and Need for Regulation:* Proposed amendments to the Rules of Practice and Procedure are intended to clarify those rules and simplify them with respect to such matters as requests for discovery, time limitation for filing petitions for reconsideration, interlocutory appeals, and authority of the Maritime Subsidy Board (MSB) to deny petitions. Proposed new Part 208 would establish a standard discovery order and a standard technique for forecasting the adequacy/inadequacy of U.S.-flag liner service in hearings required under section 605(c), Merchant Marine Act, 1936 (1936 Act) relating to applications for operating-differential subsidy (ODS). The form of application for such subsidy (in Part 251) would be amended to conform to the requirements of the new Part 208. This action arose out of a Petition for Issuance of a Rule by an operator receiving ODS, alleging that there was an inordinate delay, resulting in excessive costs to applicants for ODS, in the proceedings under section 605(c) of the Act. The petition was published in the **Federal Register** inviting public comment. The MSB denied the petition on March 22, 1979 (Docket No. A-133), but announced an intent to promulgate proposed regulations that would most likely reduce some of the delay and expense. The proposed rulemaking has been published with that objective.

(b) *Legal Authority:* Sec. 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable:* Anticipated dates: Proposal will appear in **Federal Register:**

(i) In proposed form (*published June 25, 1979*).

(ii) In final form (*November 1979*).

(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in **Federal Register** and information released to and published by *Journal of Commece* and *Congressional Information Bureau* (maritime industry publication).

(f) *Major Issues Surrounding Proposed Regulatory Action:* Whether the existing procedures of the MSB for considering petitions for award of ODS under section 605(c) of the 1936 Act as well as

[1] The timeliness of developing regulations is being reassessed in view of the prospects of significant substantive changes in the law relating to the CDS program.

the applicable general Rules of Practice and Procedure in 46 CFR Part 201 result in unreasonable delay with resulting excessive costs to vessel operators.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X, unknown); anticipated date of draft analysis (N/A).

(2) Other Documents Available: None.

(h) *Agency Contact:* Robert J. Patton, Acting Secretary, Maritime Administration, Washington, D.C. 20230, Tel. (202) 377–2188.

DOC Operating Unit

Marad.

Title of Regulation

Operating-differential subsidy for bulk cargo vessels engaged in worldwide services; principal foreign-flag competition; foreign wage cost (46 CFR 252.22; 252.31).

(a) *Description and Need for Regulation:* The Maritime Administration (Marad) administers an operating-differential subsidy (ODS) program which is intended to compensate American shipowners in foreign trade for the cost difference between operating a ship under American, rather than foreign registry. The level of ODS payments is based on the comparative costs incurred by representative American and foreign operators with respect to major items. The procedures for selecting representative cost items and representative foreign flags, as well as costs, and for calculating ODS payments are revised frequently as economic conditions change. The proposed amendments to these regulations will reflect consideration of these changes by the Maritime Subsidy Board (Board), which has the responsibility for making ODS determinations concerning awards and rates.

(b) *Legal Authority:* Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (*published March 30, 1979*).

(ii) In final form (August 1979).

(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in **Federal Register**; and information released to and published by *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).

(f) *Major Issues Surrounding Proposed Regulatory Action:* Among the issues which the Board had to consider in drafting the revised ODS standards were, (1) how to determine when domestic and foreign items costs were representative of the cost differences actually faced by an American operator on a particular trade route, and (2) whether the relative weight given to the costs of various items actually reflect their importance in determining the profitability of operating American ships in foreign trades.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X, unknown); anticipated date of draft analysis (N/A).

(2) Other Documents Available: None.

(h) *Agency Contact:* Frederick R. Larson, Maritime Administration, Director, Office of Ship Operating Costs, Washington, D.C. 20230, Tel. (202) 377–5532.

DOC Operating Unit

Marad.

Title of Regulation

Award and Administration of Operating-Differential Subsidy for Dry Bulk Cargo Vessels (46 CFR Part 254).

(a) *Description and Need for Regulation:* The Maritime Administration (Marad) administers an operating-differential subsidy (ODS) program which is intended to compensate American shipowners in foreign trade for the cost difference between operating a ship under American, rather than foreign registry. The level of ODS payments is based on the comparative costs incurred by representative American and foreign operators with respect to major items. The procedures for selecting representative cost items and representative foreign flags, as well as costs, and for calculating ODS payments are revised frequently as economic conditions change. The proposed regulation will recognize the need for some substantive rules and procedures in the administation of the operating-differential subsidy program (ODS) for dry bulk cargo vessels that differ from those applicable to liquid bulk cargo vessels. Regulations governing ODS for all bulk cargo vessels engaged in world-wide services appear in 46 CFR Part 252, selected for review. Amendments to Part 252 will be based on the scheme and format of new Part 254. The new Part 254 will also implement any new legislation which might be enacted, arising out of proposals submitted by Marad and other legislative initiatives.

(b) *Legal Authority:* Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable:* Anticipated dates Proposal will appear in **Federal Register:**

(i) In proposed form (October 1979) [2]

(ii) In final form (early 1980)[2]

(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in **Federal Register** and release of information to *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).

(f) *Major Issues Surrounding Proposed Regulatory Action:* The need to develop regulations that recognize the unique problems of dry bulk vessel operators receiving ODS to clarify existing law and reflect enactment of legislative proposals, if enacted.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X, unknown); anticipated date of draft analysis (N/A).

(2) Other Documents Available: None.

(h) *Agency Contact:* Frederick R. Larson, Maritime Administration, Director, Office of Ship Operating Costs, Washington, D.C. 20230, Tel. (202) 377–5532.

DOC Operating Unit:

Marad.

Title of Regulation

Operating-differential subsidy for bulk cargo vessels engaged in worldwide service; essential service requirement (46 CFR 252.21).

(a) *Description and Need for Regulation:* The Martime Administration (Marad) provides operating-differential subsidy (ODS) payments to American carriers engaged in the essential foreign trades of the United States to compensate them for the cost differences in operating under the U.S. flag, rather than under competitive foreign flags. For liner operators, the statutory definition of "essential foreign trade" covers only shipments to and from the United States. However, "essential foreign trade" for tramp trade bulk carrriers includes foreign-to-foreign point shipments as well, since tramp ships must be able to go where cargo is

[2] Estimates—subject to delays pending Congressional action on pending legislative proposals relating to promotion of U.S.-flag dry bulk vessel constuction.

available. Marad wrote into the tramp trade bulk carrier ODS contracts a requirement that they carry a certain percent of their cargo to and from U.S. ports in order to ensure that the subsidized bulk operations promoted the foreign trade of the United States Marad has suspended enforcement of the U.S. trade percentage restriction since 1977 while evaluating the need for this requirement. Experience since then has shown that subsidized tramp bulk operators tend to carry a high percentage of their cargo to and from U.S. ports, even without the contractual obligation to do so. However, the continued existence of the contractual restriction may hamper the operations of U.S. flag bulk carriers and so place U.S. operators at a competitive disadvantage. The proposed amendment to the regulation would therefore permanently eliminate this restriction in existing ODS contracts for bulk carriers.

(b) *Legal Authority:* Secs. 204(b), 601(a), 603(a) and 211(b), Merchant Marine Act, 1936 as amended, (46 U.S.C. 114(b)), 1171(a), 1173(a) and 1121(b)).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no, unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timeable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (published May 31, 1979).

(ii) In final form (October 1979).

(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in **Federal Register** with information released to and published by *Journal of Commerce* and *Congressional Information Bureau* (Maritime industry publication).

(f) *Major Issues Surrounding Proposed Regulatory Action:* The major issue in this regulation is to balance the interest of the U.S. Government in making sure that subsidy funds are used to promote the foreign commerce of the U.S. while weighing the impact and cost of foreign percentage restrictions that limit the ability of U.S. operators to compete with foreign-flag operators.

Documents Available to Interested Parties:

(1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (N/A).

(2) Other Documents Available: None.

(h) *Agency Contact:* Kenneth Willis, Examiner, Maritime Administration, Office of Subsidy Contracts, Washington, D.C. 20230, Tel. (202) 377–4660.

DOC Operating Unit

Marad.

Title of Regulation

Construction-differential subsidy (CDS) contracts (46 CFR Part 251).

(a) *Description and Need for Regulation:* The Maritime Adminstration (Marad) administers a construction-differential subsidy program (CDS) which is intended to encourage the construction of privately owned merchant ships in American shipyards. The CDS payment compensates for the difference in cost for work done in American, rather than foreign shipyards. Three contracts are required for each project: one between the purchaser or owner and the shipyard; one between the purchaser or owner and Marad, and one between the shipyard and Marad. Currently, the terms of all three contracts are negotiated for each project even though the same set of legal standards apples to all projects. Marad will therefore promulgate a standard set of contracts for use by all parties on future projects. This will greatly reduce legal time and expenses for all parties and will ensure that all interested parties participate in a CDS program on an equal basis.

(b) *Legal Authority:* Sec. 204(b) Merchant Marine Act, 1936, as amended (46 USC 1114(b)).

(c) *Importance of Regulation:*

(i) is the regulation significant? (yes X, no , unknown)

(ii) is the regulation major? (yes , no X, unknown)

(d) *Timetable:* Anticipated dates the Proposal will appear in the **Federal Register:**

(i) In proposed form (published February 29, 1979).

(ii) In final form (November 1979).

(e) *Tentative Plan for Obtaining Public Comments:* Provided for through publication in **Federal Register:** comments have been reviewed and proposed revisions are being made by the staff for consideration by the Martime Subsidy Board.

(f) *Major Issues Surrounding Proposed Regulatory Action:* The major issues in drafting the standardized contracts are to ensure that they are consistent with legal requirements, adequately protect the interests of the Government, are consistent with industry practices and are sufficiently flexible to cover future contingencies.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X, unknown); anticipated date of draft analysis (N/A).

(2) Other Documents Available: None.

(h) *Agency Contact:* Melvin S. Eck, Attorney-Advisor, Maritime Administration, Office of the General Counsel, Washington, D.C. 20230, Tel. (202) 377–2771.

DOC Operating Unit

Marad.

Title of Regulation

Cargo Preference—U.S. flag vessels—determination of fair and reasonable rates (46 CFR 381.8, 381.9 and Part 382).

(a) *Description and Need for Regulations:* 46 U.S.C. 1241 states that at least 50% of the materials procured by the United States Government which are shipped by water shall be transported on privately-owned United States flag commercial vessels so long as they are available at "fair and reasonable rates." The Maritime Administration (Marad) is responsible for issuing regulations governing the implementation of this program by other agencies.

The proposed regulations will set forth the standards and procedures used in determining "fair and reasonable rates." These standards and procedures have not been set forth by regulation in the past. It is expected that codification and publication of these standards and procedures will provide merchant ship operators with the information needed to determine the rates they could expect for section 1241 cargo. It will also allow other government agencies to determine more easily under what conditions they are obliged to ship available cargoes on U.S.-flag vessels.

(b) *Legal Authority:* Sec. 204, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).

(c) *Importance of Regulations:*

(i) Is the regulation significant? (yes X , no , unknown)

(ii) Is the regulation major? (yes , no X , unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (*September 1979*) [3]

(ii) In final form (December 1979) [3]

(e) *Tentative Plan for Obtaining Public Comments:* Publication in proposed form in **Federal Register** and release of information to *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication.

(f) *Major Issues Surrounding Proposed Regulatory Action:* The major issue involved in drafting these regulations is to determine whether a proper balance

[3] Estimate only. Maritime Subsidy Board is to determine policy as to scope of regulations, i.e., whether applicable to carriage of dry bulk cargoes as well as liquid bulk cargoes.

is struck between the interests of private carriers and government agencies. A "fair and reasonable return" should allow efficient carriers to make a competitive profit at the lowest rates consistent with the development of a healthy merchant marine industry. Marad must also determine whether the economic assumptions about cost and financing on which the calculations of fair and reasonable rates are based are consistent with industry experience.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X , unknown); anticipated date of draft analysis (N/A).

(2) Other Documents Available: None.

(h) *Agency Contact:* Frederick R. Larson, Maritime Administration, Director, Office of Ship Operating Costs, Washington, D.C. 20230, Tel. (202) 377–5532.

DOC Operating Unit

Marad.

Title of Regulation

Charges for processing certain applications (46 CFR 221.14).

(a) *Description and Need for Regulation:* Under Section 9 of the Shipping Act, 1916 (46 U.S.C. 808) Maritime Administration approval is required to sell or transfer in any manner to a non-citizen any interest in a vessel owned, in whole or in part, by a U.S. citizen and documented under U.S. laws, or to transfer or place such a vessel under foreign registry. Pursuant to Section 37 of that Act, during time of war or national emergency, approval is required for such transactions where the vessel is owned in whole or in part by a U.S. citizen or corporation, or documented under U.S. laws. Approval is also required for the sale or transfer to a non-citizen of any shipyard drydock, shipbuilding or ship repairing plant or facilities, or interest that is U.S. owned, in whole or in part. An increase to charges for foreign transfer services is being considered in order to reflect the increased costs of processing the applications. These fees were last revised in 1974. Charges for services based on vessel tonnage is being considered. For vessels of 3,000 gross tons and over, a contract must be executed. This involves significantly more work, and the fee structure would be modified accordingly. Also being considered is an amendment to clarify the type of applications covered.

(b) *Legal Authority:* Sec. 43, Shipping Act, 1916 as amended (46 USC 841a)

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (published August 8, 1979).

(ii) In final form (November 1979).

(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in **Federal Register;** and release of information to *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).

(f) *Major Issues Surrounding Proposed Regulatory Action:* Whether there should be a general increase in charges for foreign transfer services, with the amount of increase varying directly with the administrative cost of processing the various categories of applications.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X, unknown); anticipated date of draft analysis (N/A).

(2) Other Documents Available: None.

(h) *Agency Contact:* Robert Willett, Maritime Administration, Office of Budget and Program Evaluation, Washington, D.C. 20230, Tel. (202) 377–3901.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Atlantic Billfishes and Sharks Preliminary Fishery Management Plan (PMP) Amendment to extend the regulation for the period Jan. 1, 1980 to Dec. 31, 1980

(a) *Description and Need for Regulation:* Regulates foreign longlining for billfishes and sharks in the Fishery Conservation Zone (FCZ) along Atlantic, Gulf, and Caribbean Coast of the United States.

(b) *Legal Authority:* 16 U.S.C. 1801 *et. seq.*

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (November 1979).

(ii) In final form (December 1979).

(e) *Tentative Plan for Obtaining Public Comments:* Will be published in **Federal Register** as proposed rulemaking.

(f) *Major Issues Surrounding Proposed Regulatory Action:* Incidental and directed harvest of billfishes and sharks by foreign longliners. Optimum yield of billfishes and sharks.

(g) *Documents Avialable to Interested Parties:*

(1) Regulatory Analysis Required? (yes X, no , unknown); Anticipated date of draft analysis (not determined)

(2) Other Documents Available:

Atlantic Billfishes and Sharks Preliminary Fishery Management Plan.

(h) *Agency contact:* Mr. William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702, Phone: (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Atlantic Mackerel Fishery Mangement Plan (FMP).

(a) *Description and Need for Regulation:* Regulations will implement the Fishery Management Plan for Atlantic Mackerel. The regulations will control the domestic and foreign fishery in the Fishery Conservation Zone (FCZ) of the Atlantic Ocean.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed form (August 1979)

(ii) In final form (October 1979)

(e) *Tentative Plan for Obtaining Public Comments:* Publication of proposed rulemaking in **Federal Register** for 60-day comment period. Distribution of news release to state agencies, environmental groups, and fisheries organizations announcing general nature of proposed rulemaking, and where copy of regulatory text can be obtained.

(f) *Major Issues Surrounding Proposed Regulatory Action:* Optimum yield for Atlantic Mackerel. Allocation between domestic and recreational fishermen of allowable harvest; and mandatory reporting of catches by commercial vessels plus party and charter boats.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes X, no , unknown)

Anticipated date of draft analysis (July 1979)

(2) Other Documents Available:

Atlantic Mackerel Fishery Management Plan and accompanying Environmental Impact Statement.

(h) *Agency contact:* Mr. Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930. Phone: (617) 281–3600.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Atlantic Squid Fishery Management Plan (FMP).

(a) *Description and Need for Regulation:* Regulations will implement the Fishery Management Plan for Atlantic Squid (*ILLEX* and *Loligo*). These regulations will control the harvest by domestic and foreign fishermen in the Fishery Conservation Zone (FCZ) of the Atlantic Ocean.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (June 1979).

(ii) In final form (September 1979).

(e) *Tentative Plan for Obtaining Public Comments:* Proposed rulemaking was published in the **Federal Register** on June 26, 1979 (44 FR 37252). Public comment is invited until August 27, 1979. The National Marine Fisheries Service (NMFS) Regional Office issued a news release announcing this proposed rulemaking on June 25, 1979. Distribution was widespread to state agencies, fisheries organizations, environmental groups, and the media.

(f) *Major Issues Surrounding Proposed Regulatory Action:* Specification of United States harvesting capacity; provisions for inseason reallocation of squid from domestic quotas to foreign quotas, specification of a fishing year, and mandatory reporting of squid catches by genera.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (June 1979).

(2) *Other Documents Available:*

Atlantic Squid Fishery Management Plan and accompanying Environmental Impact Statement which was published in the **Federal Register** on June 26, 1979 (44 FR 37257).

(h) *Agency contact:* Dr. Robert W. Hanks, Deputy Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 09130, Phone: (617) 281–3600.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Atlantic Butterfish Fishery Management Plan (FMP).

(a) *Description and Need for Regulation:* Regulations will implement the Fishery Management Plan for Butterfish. The regulations will control the domestic and foreign fishery in the Fishery Conservation Zone (FCZ) of the Atlantic Ocean.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulations:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (September 1979).

(ii) In final form (November 1979).

(e) *Tentative Plan for Obtaining Public Comments:* Publication of proposed rulemaking in **Federal Register** for 60-day public comment period. News release mailed to State agencies, environmental groups, and fisheries organizations indicating where text of proposed rulemaking can be obtained.

(f) *Major Issues Surrounding Proposed Regulatory Action:* Optimum yield for butterfish, allocation of butterfish between domestic and foreign fishermen, provisions for reallocation of butterfish from domestic quota to foreign quota during fishing season, and mandatory reporting of catches by domestic vessels.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (September 1979).

(2) Other Documents Available:

Fishery Management Plan and accompanying Environmental Impact Statement for Butterfish (November 1978); Revised Fishery Management Plan (June 1979).

(h) *Agency contact:* Dr. Robert W. Hanks, Deputy Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, Phone: (617) 281–3600.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Stone Crab Fishery Management Plan (FMP)

(a) Description and Need for Regulation: Implementation of Stone Crab Fishery Management Plan controls domestic harvest of stone crabs in Fishery Conservation Zone (FCZ) off the southwest coast of Florida.

(b) Legal Authority: 16 U.S.C. 1801 *et. seq.*

(c) Importance of Regulations: (i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) Timetable—Anticipated Dates Proposal Will Appear in **Federal Register:**

(i) In proposed form (March 26, 1979).

(ii) In final form (August 1979).

(e) Tentative Plan for Obtaining Public Comments: Public comment period has been held and is now completed.

(f) Major Issues Surrounding Proposed Regulatory Action: Establishment of management measures which will control harvest of stone crabs and which will minimize gear conflicts between shrimp fishermen and stone crab fishermen.

(g) Documents Available to Interested Parties: (1) Regulatory Analysis Required? (yes X, no , unknown) anticipated date of draft analysis (January 1979).

(2) Other Documents Available:

Stone Crab Fishery Management Plan

(h) Agency contact: Mr. William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702, Phone: (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Extension of Commercial/Recreational Salmon off California, Oregon, and Washington Fishery Management Plan (FMP) (50 CFR Part 661).

(a) Description and Need for Regulation: Regulates the domestic troll fishery for salmon in the Fishery Conservation Zone (FCZ) off California, Oregon, and Washington.

(b) Legal Authority: 16 U.S.C. 1801 *et seq.*

(c) Importance of Regulation: (i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) Timetable—Anticipated Dates Proposal Will Appear in Federal Register:

(1) In proposed form (March 1980).

(ii) In final form (June 1980).

(e) Tentative Plan for Obtaining Public Comments: Will be published in the Federal Register.

(f) Major Issues Surrounding Proposed Regulatory Action: Length of fishing season. Allocation among domestic user groups.

(g) Documents Available to Interested Parties: (1) Regulatory Analysis Required? (yes X, no , unknown) anticipated date of draft analysis (July 1, 1979).

(2) Other Documents Available:

Commerical and Recreational Salmon FMP Amendment, 1979.
Commerical and Recreational Salmon FMP, 1978.
Commerical and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California FMP, 1977.

(h) Agency contact: Mr. Donald R. Johnson, Regional Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North, Seattle, Washington 98109, Phone: (206) 442–7575.

DOC Operating Unit

National Marine Fisheries Service, NOAA

Title of Regulation

High Seas Salmon Fishery Management Plan (FMP) Regulations.

(a) Description and Need for Regulation: Regulates domestic troll salmon fishery in Fishery Conservation Zone (FCZ) off Alaska.

(b) Legal Authority: 16 U.S.C. 1801 *et seq.*

(c) Importance of Regulation: (i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) Timetable—Anticipated Dates Proposal Will Appear in Federal Register: (i) In proposed form (*June 1979*).

(ii) In final form (*August 1979*).

(e) Tentative Plan for Obtaining Public Commenis: Published in Federal register on May 18, 1979.

(f) Major Issues Surrounding Proposed Regulatory Action: Controlling fishing effort on stocks.

(g) Documents Available to Interested Parties: (1) Regulatory Analysis Required? (yes X, no , unknown)

(i) Anticipated date of draft analysis (exempt on emergency basis).

(2) Other Documents Available:

High Seas Salmon Fishery Management Plan.

(h) Agency Contact: Mr. Philip Chitwood, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Phone: (907) 586–7229.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Pacific Billfish and Oceanic Sharks Preliminary Fishery Management Plan (PMP).

(a) Description and Need for Regulation: Implementation of Preliminary Fishery Management plan (PMP) for Pacific Billfish, Oceanic Sharks, and Related Species in the Fishery Conservation Zone (FCZ) off Hawaii, Guam, American Samoa, the Northern Mariana Island, and U.S. possessions in the central and western Pacific Ocean.

(b) Legal Authority: 16 U.S.C. 1801 *et seq.*

(c) Importance of Regulations:

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) Timetable—Anticipated Dates Proposal Will Appear in the Federal Register:

(i) In proposed from (June 15, 1979).

(ii) In final form (September 1979).

(e) Tentative Plan for Obtaining Public Comments: Sixty-day public review, including Regional Fishery Management Council, review.

(f) Major Issues Surrounding Proposed Regulatory Action: Control of incidental catch of billfish, sharks, and related species by foreign longline vessels fishing for tuna in the FCZ.

(g) Documents Available to Interested Parties: (1) Regulatory Analysis Required? (yes X, no , unknown) anticipated date of draft analysis (June 1979).

(2) Other Documents Available:

Final Supplemental Environmental Impact Statement (EIS)/Preliminary Fishery Management Plan (PMP) for Pacific Billfish And Oceanic Sharks.

(h) Agency contact: Mr. Gerald V. Howard, Regional director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Room 2016, Terminal Island, California 90731, Phone: (213) 548–2575.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Determination of Critical Habitat for Kemp's Ridley and Loggerhead Sea Turtles (50 CFR Part 226).

(a) Description and Need for Regulation: On October 4, 1978, the National Marine Fisheries Service (NMFS) published proposed determination of Critical Habitat for Kemp's Ridley and Loggerhead Sea Turtles in the Port Canaveral Navigation Channel, Cape Canaveral, Florida. The action was taken to provide protection to endangered and threatened sea turtles hibernating in the channel.

(b) Legal Authority: Endangered Species Act of 1973 (Pub. L. 93–205) (87 Stat. 884) (16 U.S.C. 1531–1543).

(c) Importance of Regulation: (i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) Timetable—Anticipated Dates Proposal Will Appear in Federal Register:

(i) In proposed form (October 4, 1978).

(ii) In final form (December 1979).

(e) Tentative Plan for Obtaining Public Comments: Proposed regulations were published in the Federal Register on October 4, 1978. The proposal solicited public comments and hearing requests. On November 27, 1978, a supplemental notice was published which extended the comment period, announced the holding of a public meeting and hearing, and requested comments on economic impacts of the designation. Notice of the proposed regulation and meeting/hearing was published in two local newspapers and offered for publication in three scientific journals. The proposed regulation and environmental assessment were sent to state and local governmental officials, Federal agencies, Congressional offices, conservation organizations, and selected individuals.

(f) Major Issues Surrounding Proposed Regulation Action: The environmental assessment determined that the proposed Federal action is not a major action having significant impact on the quality of the human environment. The major effect of designating this area as Critical Habitat will be to require any Federal agency that authorizes funds or carries out activities that might result in the destruction or adverse modification of the area to comply with section 7 of the Act.

(g) Documents Available to Interested Parties: (1) Regulatory Analysis Required? (yes X, no , unknown):

anticipated date of draft analysis (not determined).

(2) Other Documents Available:

Environmental Impact Assessment: Proposed Determination of Critical Habitat for the Kemp's Ridley and Loggerhead Sea Turtles in the Port Canaveral Navigation Channel. September 1978.

(h) Agency Contact: Mr. Richard B. Roe, Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, Phone: (202) 634–7461.

DOC Operating : Unit National Marine Fisheries Service, NOAA

Title of Regulation

Atlantic Bluefin Tuna (Amendment) (50 CFR Part 285, Subpart B).

(a) *Description and Need for Regulation:*

In 1976, the National Marine Fisheries Service (NMFS) published regulations governing domestic fishing for Atlantic bluefin tuna, pursuant to recommendations made by the International Commission for the Conservation of Atlantic Tunas. Consideration is being given to amendment of these regulations to include limited entry as a management method and possibly to elimination of the quota for young school tuna.

(b) *Legal Authority:* 16 U.S.C. 971a–971h.

(c) *Importance of Regulation:* (i) Is the regulation significant? (yes X, no , unknown) (ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:** (i) In proposed form (January–February 1980).

(ii) In final form (Spring 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Will be published in the **Federal Register,** and hearings will be held.

(f) *Major Issues Surrounding Proposed Regulatory Action:* Addition of limited entry system. Elimination of quota for young school tuna.

(g) *Documents Available to Interested Parties:* (1) Regulatory Analysis Required? (yes X, no , unknown) anticipated date of draft analysis (Winter 1979).

(2) *Other Documents Available:*

International Convention for the Conservation of Atlantic Tunas.
Atlantic Tunas Conservation Act of 1975.

(h) *Agency Contact:* Mr. Bruce L. Freeman, Fishery Biologist, Fisheries Management Division, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930, Phone: (617) 281–3600.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Designation of Critical Habitat for the Hawaiian Monk Seal (50 CFR Part 226).

(a) *Description and Need for Regulation:* Designation of Critical Habitat for the Hawaiian Monk Seal is required pursuant to the Endangered Species Act of 1973, as amended. The Act requires that critical habitat be designated for endangered and threatened species now listed in accordance with the Act. Critical habitat means the specific areas within (or outside) the geographical range of the species on which are found those physical or biological features essential to the conservaton of the species and which may require special management considerations or protection.

(b) *Legal Authority:* Endangered Species Act of 1973 (P.L. 93–205) (87 Stat. 884) (16 U.S.C. 1531–1543).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)?

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (January 1980).

(ii) In final form (March 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Public comment and consultation with State and local governments will be solicited at all stages of the process of designation, including those opportunities available through the National Environmental Policy Act process, and public hearings. Public comments will also be solicited when the proposed area(s) designated are published in the **Federal Register.**

(f) *Major Issues Surrounding Proposed Regulatory Action:* Impact of the designation on State and Federal activities within, and adjacent to, the critical habitat; economic impact of the proposed area designation on the private sector; effectiveness of the area designation on increasing the likelihood of the survival of endangered species; ecological impact of the area designation on the associated flora and fauna within, and adjacent to, the critical habitat.

(g) *Documents Available to Interested Parties:* (1) Regulatory Analysis Required? (yes X, no , unknown) anticipated date of draft analysis (not determined).

(2) *Other Documents Available:*

Draft Environmental Impact Statement (DEIS) to be prepared for public review.

(h) *Agency Contract:* Mr. Gerald V. Howard, Regional Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731, Phone: (213) 548–2575.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Regulation Declaring Restricted Fishing Areas (Port Canaveral and Other Areas) (50 CFR Parts 222 and 227).

(a) *Description and Need for Regulation:* On July 28, 1978, the National Marine Fisheries Service (NMFS) published notice in the **Federal Register** that it is considering candidate areas where sea turtles are concentrated for designation as Restricted Fishing areas and/or Critical Habitat (43 FR 328000). A Restricted Fishing Area is an area where incidental catch is prohibited or otherwise controlled. Controls may include proper gear usage, fishing methods or procedures, or other regulatory controls to reduce or eliminate incidental catch of sea turtles. The following candidate areas where turtles are concentrated will be considered for designation as Restricted Fishing Areas: North Island—Georgetown, South Carolina; Cape Romain, South Carolina; Brunswick River Channel, Georgia; Hole-in-the-Rock Channel, Georgia; Cape Canaveral Ship Channel, Florida; and North and South Padre Island, Texas.

(b) *Legal Authority:* Endangered Species Act of 1973 (Pub. L. 93–205) (87 Stat. 884) (16 U.S.C. 1531–1543).

(c) *Importance of Regulation:* (i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated Date Proposal Will Appear in* **Federal Register:**

(i) In proposed form (*March 1980*).

(ii) In final form (*June 1980*).

(e) *Tentative Plan for Obtaining Public Comments:* Prior to the designation of any Restricted Fishing Area within State waters, the Assistant Administrator (NMFS) shall consult with the Governor(s) and Marine Conservation Department(s) of the affected State(s). The Assistant Administrator shall also consult with the appropriate Regional Fishery Management Councils and with affected fishing industries. Public meetings and hearings will be held.

(f) *Major Issues Surrounding Proposed Regulatory Action:* Unknown at this time. The environmental assessment

and, if appropriate, environmental impact statement will examine major issues.

(g) *Documents Available to Interested Parties:* (1) Regulatory Analysis Required? (yes X, no , unknown) anticipated date of draft analysis (*not determined*).

(2) *Other Documents Available:* An environmental assessment and/or environmental impact statement will be prepared prior to the proposed designation(s).

(h) *Agency Contact:* Mr. Richard B. Roe, Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, Phone: (202) 634–7461.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Fish and Wildlife Coordination Act, Uniform Procedures for Compliance.

(a) *Description and Need for Regulation:* Defines requirements and procedures that must be met for fully complying with the Fish and Wildlife Coordination Act (FWCA).

(b) *Legal Authority:* President's Water Policy Memorandum issued July 12, 1978; Fish and Wildlife Coordination Act (16 U.S.C. 661); Fish and Wildlife Act of 1956 (16 U.S.C. 742–(a–k).

(c) *Importance of Regulations:* (i) Is the regulation significant? (yes X, no , unknown) (ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable—Actual and Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (May 18, 1979).

(ii) In final form (October 1, 1979).

(e) Joint NOAA/Interior Notice of Intent to propose rules was published in **Federal Register** on September 29, 1978; Proposed (draft) regulations were published in **Federal Register** on May 18, 1979, and distributed widely to those state governments, Federal agencies, and public groups known to be interested (90-day public review); Public hearings were held June 26–28, 1979, in Washington, D.C.; San Francisco, California; Denver, Colorado; Arlington, Texas; Twin Cities, Minnesota; and New Orleans, Louisiana.

(f) *Major Issues Surrounding Proposed Regulatory Action:* (1) Applicability of FWCA to a variety of Federal activities including Outer Continental Shelf oil and gas leases, permits, licenses, grants, financial or technical assistance, or other projects affecting waters of the U.S. and oceanic waters; (2) Assessment methods to be used to evaluate wildlife resource values and project effects on those values; (3) Establish a definition of "equal consideration of wildlife" in planning projects and "justifiable measures" for wildlife conservation; (4) Degree of involvement by National Marine Fisheries Service (NMFS) field biologists in the planning process of Federal construction and regulatory agencies.

(g) *Documents Available to Interested Parties:* (1) Regulatory Analysis Required? (yes , no X, unknown); anticipated date of draft analysis (not applicable).

(2) Other Documents Available: None.

(h) *Agency Contact:* Mr. Kenneth R. Roberts, Acting Director, Office of Habitat Protection, National Marine Fisheries Service, Washington, D.C. 20235, Phone: (202) 634–7490.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Atlantic Surf Clam and Ocean Quahog Fisheries (50 CFR Part 652).

(a) *Description and Need for Regulation:* Regulations to implement the Fishery Management Plan (FMP) for Surf Clams and Ocean Quahogs were published in the **Federal Register** on February 17, 1978 (43 FR 6952).

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (September 1979).

(ii) In final form (January 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Public hearings were held in mid-July 1979, in both the New England and Mid-Atlantic Regions to obtain comments on the management proposals for the surf clam and ocean quahog fisheries beginning January 1, 1980. These proposals are contained in a Supplemental Environmental Impact Statement (draft) circulated for review and comment in accordance with Council of Environmental Quality (CEQ) regulations. Proposed rulemaking will be published in the **Federal Register** for a 60-day comment period.

(f) *Major Issues Surrounding Proposed Regulatory Action:* Optimum yields for surf clams and ocean quahogs; quarterly allocation of surf clam quota; management measures for the New England fishery; continuation of moratorium of new entrants into surf clam fishery; freezing present sizes of surf clam dredges; minimum size for surf clams; and authorized fishing time.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes X, no , unknown); anticpated date of draft analysis (September 1979).

(2) Other Documents Available:

Fishery Management Plan and Environmental Impact Statement for Surf Clams and Ocean Quahogs (42 FR 60438).

(h) *Agency contact:* Mr. Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, Phone: (617) 281–3600.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Precious Coral Fishery Management Plan (FMP) (Western Pacific).

(a) *Description and Need for Regulation:* Implementation of the FMP FOR Precious Coral Fisheries of the Western Pacific Region is needed to protect corals from overfishing and to achieve the optimum yield from the fishery.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable: Anticipated Dates Proposal Will Appear in the* **Federal Register:**

(i) In proposed form (November 1979).

(ii) In final form (January 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Hearings on the FMP have been held previously. Regulations will be subject to 60-day public review as well as Department of Commerce Secretarial review and approval of the FMP.

(f) *Major Issues Surrounding Proposed Regulatory Action:* Allowing exploratory fishing by dredging or other non-selective means; establishment of quotas associated with optimum yields; allocation of exploratory quotas to foreign interests.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (August 1979).

(2) Other Documents Available:

Fishery Management Plan for Precious Coral Fisheries of the Western Pacific, and

associated Final Environmental Impact Statement.

(h) *Agency Contact:* Mr. Gerald V. Howard, Regional Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731, Phone: (213) 548–2575.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Trawl Fisheries of Washington, Oregon, and California Preliminary Fishery Management Plan (PMP) or Washington, Oregon, and California Groundfish Fishery Management Plan (FMP), if in place.

(a) *Description and Need for Regulation:* Implements Trawl Fishery of Washington, Oregon, and California PMP. Regulates foreign trawl fishery in Fishery Conservation Zone (FCZ) off of Washington, Oregon, and California, or Washington, Oregon, and California Groundfish FMP, if in place.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulations:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (March 1980).

(ii) In final form (May 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Will be published in **Federal Register.**

(f) *Major Issues Surrounding Proposed Regulatory Action:* Regulating allowable levels of incidental catch, establishing maximum catch levels.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (not determined).

(2) *Other Documents Available:*

Trawl Fisheries of Washington, Oregon, and California PMP, 1977.
Supplement to the Trawl Fisheries of Washington, Oregon, and California PMP, 1978.
Second Supplement to the Trawl Fisheries of Washington, Oregon, and California PMP, 1979.
Washington, Oregon, and California Groundfish Fishery FMP.

(h) *Agency Contact:* Mr. Donald R. Johnson, Regional Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North, Seattle, Washington 98109, Phone: (206) 442–7575.

DOC Operating Unit

National Marine Fisheries Service, NOAA

Title of Regulation

Fishery Management Plan (FMP) for the Atlantic Billfishes: White Marlin, Blue Marlin, Sailfish, and Spearfish.

(a) *Description and Need for Regulation:* This action will initiate management of the billfish for the Gulf of Mexico and Atlantic Ocean in the Fishery Conservation Zone (FCZ). Management measures include the requirement of permits for specific types of fishing.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (*May 1980*).

(ii) In final form (*July 1980*).

(e) *Tentative Plan for Obtaining Public Comments:* Publish in **Federal Register** and public hearings.

(f) *Major Issues Surrounding Proposed Regulatory Action:* Conflict between recreational fishermen and both foreign and domestic longline fishermen.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (*March 1980*).

(2) Other Documents Available:

Fishery Management plan for the Atlantic Billfishes: White Marlin, Blue Marlin, Sailfish, and Spearfish.

(h) *Agency contact:* Mr. William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702, phone: (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service, NOAA

Title of Regulation

Reef Fish Resources of the Gulf of Mexico Fishery Management Plan (FMP).

(a) *Description and Need for Regulation:* Implementation of reef fish management controls for the domestic harvest of reef fishes in the Fishery Conservation Zone (FCZ). The basic objective is to manage these stocks for their optimum yield.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (*January 1980*).

(ii) In final form (*March 1980*).

(e) *Tentative Plan for Obtaining Public Comments:* Public hearings have been held on the FMP. Consultation will be held with state, local and Federal agencies as appropriate.

(f) *Major Issues Surrounding Proposed Regulatory Action:* Rebuild declining reef fish stock, monitor the harvest of reef fish resources with a reporting system, and minimize conflicts between user groups (i.e., traps versus hook and line).

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (*December 1979*).

(2) Other Documents Available:

Reef Fish Resources of the Gulf of Mexico Fishery Management Plan.

(h) *Agency contact:* Mr. William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702, phone: (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service, NOAA

Title of Regulation

Fishery Management Plan (FMP) for the Spiny Lobster Fishery of Puerto Rico and the Virgin Islands.

(a) *Description and Need for Regulation:* This action will initiate management of the spiny lobster resources of the Caribbean. Management measures implemented will protect long-term yields, prevent depletion of the stocks, increase yield from the fishery, and acquire information necessary to better manage the fishery.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (*March 1980*).
(ii) In final form (*May 1980*).
(e) *Tentative Plan for Obtaining Public Comment:* Publication in **Federal Register** and public hearings.
(f) *Major Issues Surrounding Proposed Regulatory Action:* Gear and user group conflicts in harvesting the stock, poaching by pulling another's traps, and establishment of a size limit.
(g) *Documents Available to Interested Parties:*
(1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (*January 1980*).
(2) Other Documents Available:

Fishery Management Plan for the Spiny Lobster Fishery of Puerto Rico and the Virgin Islands.

(h) *Agency Contact:* Mr. William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702, phone: (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation:

Fishery Management Plan for Coral and Coral Resources.
(a) *Description and Need for Regulation:* Provides for exclusive management resources by the Federal Government within the Fishery Conservation Zone (FCZ). This action will protect the reasources of carol and of coral reef that provide valuable fish habitat.
(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*
(c) *Importance of Regulation:*
(i) Is the regulation sigificant? (yes X, no , unknown)
(ii) Is the regulation major? (yes X, no , unknown)
(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form (*April 1980*).
(ii) In final form (*June 1980*).
(e) *Tentative Plan for Obtaining Public Comments:* Publication in **Federal Register** and public hearings.
(f) *Major Issues Surrounding Proposed Regulatory Action:* Destruction of coral beds and reefs by poaching by commercial and recreational interest.
(g) *Documents Available to Interested Parties:*
(1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (*February 1980*).
(2) Other Documents Available:

Fishery Management Plan for Coral and Coral Resources.

(h) *Agency Contact:* Mr. William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702, phone: (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation:

Fishery Management Plan (FMP) for the Spiny Lobster Resource (South Atlantic and Gulf of Mexico).
(a) *Description and Need for Regulation:* This action will initiate management of the spiny lobster resources of the South Atlantic and the Gulf of Mexico. Management measures implemented will protect long-term yields, prevent depletion of the stocks, increase yield from the fishery, and acquire information necessary to better manage the fishery.
(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*
(c) *Importance of Regulation:*
(i) Is the regulation significant? (yes X, no , unknown)
(ii) Is the regulation major? (yes X, no , unknown)
(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form (*January 1980*).
(ii) In final form (*March 1980*).
(e) *Tentative Plan for Obtaining Public Comments:* Publication in **Federal Register** and public hearings.
(f) *Major Issues Surrounding Proposed Regulatory Action:* Gear and user group conflicts in harvesting the stock, poaching by pulling another's traps, and establishment of a size limit.
(g) *Documents Available to Interested Parties:*
(1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (*November 1979*).
(2) *Other Documents Available:*

Fishery Management Plan for the Spiny Lobster Resource.

(h) *Agency contact:* Mr. William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702, phone: (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Coastal Migratory Pelagic Fishery Management Plan (FMP).
(a) *Description and Need for Regulation:* The action will result in management of king, Spanish and cero mackerel, little tunny, cobia, dolphin and bluefish in the fishery Conservation Zone (FCZ) within the South Atlantic and gulf of Mexico. Management measures by recreational and commercial fishermen.
(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*
(c) *Importance of Regulation:*
(i) Is the regulation significant? (yes X, no , unknown)
(ii) Is the regulation major? (yes X, no , unknown)
(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**
(i) In proposed form (*March 1980*).
(ii) In final form (*May 1980*).
(e) *Tentative Plan for Obtaining Public Comments:* Publication in **Federal Register** and public hearings.
(f) *Major Issues Surrounding Proposed Regulatory Action:* Maintenance of the resource while making fair portions of the stocks available to both recreational and commercial fishermen.
(g) *Documents Available to Interested Parties:*
(1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of fraft analysis (*January 1980*).
(2) Other Documents Available:

Coastal Migratory Pelagic Fishery Management Plan.

(h) *Agency contact:* Mr. William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702, phone: (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Fishery Management Plan (FMP) for Sharks and Other Elasmobranchs.
(a) *Description and Need for Regulation:* To manage the sharks and other elasmobranchs of the Gulf of Mexico for maximum utilization.
(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*
(c) *Importance of Regulation:*
(i) Is the regulation significant? (yes X, no , unknown)
(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (*March 1980*).

(ii) In final form (*May 1980*).

(e) *Tentative Plan for Obtaining Public Comments:* Publication in **Federal Register** and public hearings.

(f) *Major Issues Surrounding Proposed Regulatory Action:* These resources will be managed to make available the maximum yield for future harvest.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (*January 1980*).

(2) Other Documents Available:

Fishery Management Plan for Sharks and Other Elasmobranchs.

(h) *Agency contact:* Mr. William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Fla. 33702, Phone: (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Jack Mackerel Fishery Management Plan (FMP).

(a) *Description and Need for Regulation:* Implementation of the Fishery Management Plan (FMP) for Jack Mackerel is needed to achieve optimum yield and prevent overfishing of jack mackerel in the U.S. Fishery Conservation Zone (FCZ).

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (*January 1980*).

(ii) In final form (*April 1980*).

(e) *Tentative Plan for Obtaining Public Comments:* Draft FMP and Environmental Impact Statement will be circulated for public review and hearings. Draft regulations will be subject to 60-day public review period.

(f) *Major Issues Surrounding Proposed Regulatory Actions:* Determination of optimum yield, limitations (if any) on incidental catches in jack mackerel and groundfish fisheries, allocations (if any) for joint ventures and foreign fishing.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes X, no , unknown) anticipated date of draft analysis (*November 1979*).

(2) Other Documents Available:

Draft FMP for Jack Mackerel and Environmental Impact Statement.

(h) *Agency contact:* Mr. Gerald V. Howard, Regional Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731, Phone: (213) 548–2575.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Spiny Lobster Fishery Management Plan (FMP) (Western Pacific).

(a) *Description and Need for Regulation:* Implementation of the Fishery Management Plan (FMP) for Spiny Lobster Fisheries of the Western Pacific Region will be necessary to achieve the optimum yield and to prevent overfishing.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (April 1980).

(ii) In final form (June 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Western Pacific Regional Fishery Management Council will prepare draft FMP for public hearings, and comments will be received on draft Environmental Impact Statement, as well. Regulations and final FMP will be subject to 60-day public review.

(f) *Major Issues Surrounding Proposed Regulatory Action:* Determination of optimum yield and selection of size limits for spiny lobster.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (February 1980).

(2) Other Documents Available:

Fishery Management Plan for Spiny Lobster Fisheries of the Western Pacific Region.

(h) *Agency Contact:* Mr. Gerald V. Howard, Regional Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731, Phone: (213) 548–2575.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Fishery Management Plan (FMP) for the Shrimp Fishery of the Gulf of Mexico.

(a) *Description and Need for Regulation:* The action will result in management of the shrimp fishery of the Gulf of Mexico. It will optimize the yield of shrimp, minimize take of incidental finfish, coordinate management measures with State programs where possible, and will provide for a statistical reporting system.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (February 1980).

(ii) In final form (April 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Publication in **Federal Register** and public hearings.

(f) *Major Issues Surrounding Proposed Regulatory Action:* Maximize the harvest of shrimp and minimize the taking of finfish and marine turtles.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (December 1979).

(2) *Other Documents Available:*

Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico.

(h) *Agency Contact:* Mr. William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702, Phone: (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Bering Sea and Aleutian Islands Groundfish Fishery Management Plan (FMP).

(a) *Description and Need for Regulation:* Regulates foreign and domestic fishermen in the Bering Sea and North Pacific.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (September 1979).

(ii) In final form (November 1979).

(e) *Tentative Plan for Obtaining Public Comments:* Will be published in proposed form in the **Federal Register.**

(f) *Major Issues Surrounding Proposed Regulatory Action:* Domestic processing capacity; area restrictions.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (September 1979).

(2) *Other Documents Available:*

Bering Sea and Aleutian Islands Groundfish FMP.

(h) *Agency Contact:* Mr. Phillip Chitwood, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Phone: (907) 586–7229.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Amendments to regulations to control the incidental take of porpoise in the yellowfin tuna purse seine fishery.

(a) *Description and Need for Regulation:* The Marine Mammal Protection Act of 1972 states that the incidental mortality and serious injury of marine mammals involved in commercial fishing operations must be reduced to insignificant levels approaching a zero rate. Regulations and quotas for tuna purse seine fishing were promulgated in 1977 for calendar years 1978, 1979, and 1980. These regulations continued action to reduce the incidental injury and mortality of marine mammals and to prohibit the importation of fish caught in association with marine mammals, from countries which do not meet U.S. standards.

(b) *Legal Authority:* 16 U.S.C. 1361–1407.

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (December 1979).

(ii) In final form (October 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Public comment will be solicited at all stages of the regulatory amendment process, including those opportunities available through the National Environmental Policy Act process and the Administrative Procedures Act process. Formal administrative law judge (ALJ) hearings will be conducted in Washington, D.C., and San Diego, California.

(f) *Major Issues Surrounding Proposed Regulatory Actions:* The status of the porpoise populations will be the central issue. A second issue will be the economic viability of the U.S. tuna industry. U.S. flag tuna vessels comprise approximately 60 percent of the world tuna fleet operating in the eastern tropical Pacific Ocean. U.S. vessels landed approximately 37,700 metric tons of yellowfin tuna in 1978 which were caught in association with porpoise. The economic viability of the world tuna fleet is highly dependent upon the ability to catch tuna in association with porpoise. The mortality of porpoise has been reduced from over 300,000 in 1971 to under 20,000 in 1978. However, public concern over the mortality of porpoise continues. Strong public pressure is expected to reduce the mortality to zero. Tuna industry representatives are expected to exert pressure to keep quotas high enough to avoid economic harm to their operations.

(g) *Documents Available to Interested Parties:* (1) Regulatory Analysis Required? (yes X, no , unknown); Anticipated date of draft analysis (November 1979).

(h) *Agency Contact:* Mr. Richard B. Roe, Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, Phone: (202) 634–7461.

DOC Operating Unit

National Marine Fisheries Service, NOAA

Title of Regulation

Washington, Oregon, and California Groundfish Fishery Management Plan (FMP)

(a) *Description and Need for Regulation:* Implements Washington, Oregon, and California Groundfish Fishery FMP, if in place. Regulates both foreign and domestic fishing, replacing the preliminary fishery management plan.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes, X, no , unknown)

(ii) Is the regulation major? (yes, X, no , unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in Federal Register:*

(i) In proposed form (March 1980).

(ii) In final form (May 1980).

(e) *Tentative Plan for Obtaining Comments:* Will be published in Federal Register.

(f) *Major Issues Surrounding Proposed Regulatory Action:* Conservation of stocks and allocation among domestic user groups.

(g) *Documents Available to Interested Parties:* (1) Regulatory Analysis Required? (yes, X, no , unknown); anticipated date of draft analysis (not determined).

(2) *Other Documents Available:*

Trawl Fisheries of Washington, Oregon, and California Preliminary Fishery Management Plan, 1977.

Supplement to the Trawl Fisheries of Washington, Oregon, and California Preliminary Fishery Management Plan, 1978.

Second Supplement to the Trawl Fisheries of Washington, Oregon, and California Preliminary Fishery Management Plan, 1979.

Washington, Oregon, and California Groundfish Fishery Preliminary Fishery Management Plan.

(h) *Agency Contact:* Mr. Donald R. Johnson, Regional Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North, Seattle, Washington 98109. Phone: (206) 442–7575.

DOC Operating Unit

National Marine Fisheries Service, NOAA

Title of Regulation

Atlantic Billfishes and Sharks Preliminary Fishery Management Plan (PMP Amendment)

(a) *Description and Need for Regulation:* Regulates foreign longlining for billfishes and sharks in the Fishery Conservation Zone (FCZ) along Atlantic, Gulf, and Caribbean Coast of the United States.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated dates Proposal will appear in Federal Register:*

(i) In proposed form (November 1979).

(ii) In final form (December 1979).

(e) *Tentative Plan for Obtaining Public Comments:* Will be published in **Federal Register** as proposed rulemaking.

(f) *Major Issues Surrounding Porposed Regulatory Action:* Incidental and directed harvest of billfishes and sharks by foreign longliners. Optimum yield of billfishes and sharks.

(g) *Documents Available to Interested Parties:* (1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (not determined).

(2) Other Documents Available:

Atlantic Billfishes and Sharks Preliminary Fishery Management Plan

(h) *Agency contact:* Mr. William H. Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702, Phone: (813) 893–3141.

DOC Operating Unit

National Marine Fisheries Service, NOAA

Title of Regulation

Guidelines for Development of Fishery Management Plans Regulations (50 CFR Part 602)

(a) *Description and Need for Regulation:* Guidelines for the development of fishery management plans.

(b) *Legal Authority:* 16 U.S.C. 1851.

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in*—Federal Register:

(i) In proposed form (Fall 1979).

(ii) In final form (Fall 1979).

Tentative Plan for Obtaining Public Comments: Will be published as proposed regulations in **Federal Register.**

(f) *Major Issues Surrounding Proposed Regulatory Action:* Regulations will require fishery management plans (FMP's) to contain information about (1) historical and projected transfers from U.S. harvesting vessels to foreign vessels; (2) the processing capacity of U.S. fish processors; and (3) data which U.S. processors must submit to the Secretary of Commerce.

(g) *Documents Available to Interested Parties:* (1) Regulatory Analysis Required? (yes no X, unknown); anticipated date of draft analysis (not applicable)

(2) Other Documents Available:

Proposed Regulations, October 20, 1978 (43 FR 49023).

Interim Final Regulations, February 7, 1979 (44 FR 7708).

(h) *Agency Contact:* Mr. Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235, Phone: (202) 634–7432.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Fishery Management Plan (FMP) for Atlantic Herring Fishery (50 CFR Part 653) (Amendment)

(a) *Description and Need for Regulation:* Final regulations were published in the **Federal Register** to implement the Fishery Management Plan for Atlantic Herring on March 21, 1979 (44 FR 17186). Amendments to these regulations are necessary because of changes being proposed to the Fishery Management Plan.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated Dates Proposal Will Appear in Federal Register:*

(i) In proposed form (Fall 1979)

(ii) In final form (not determined)

(e) *Tentative Plan for Obtaining Public Comments:*

Three public hearings were held between April 9–11, 1979, to receive comments on various alternative management strategies for Atlantic herring. A supplemental environmental impact statement is being prepared on the preferred alternative and will be distributed for review and comment in accordance with Council of Environmental Quality (CEQ) regulations. Regulations will be published in the **Federal Register** for public comment.

(f) *Major Issues Surrounding Proposed Regulatory Action:* Redefinition of management unit; establishment of optimum yield by management area; and sub-allocation of Gulf of Maine optimum yield to reflect seasonal activity of historic fisheries.

(g) *Documents Available to Interested Parties:* (1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (not determined).

(2) *Other Documents Available:*

Fishery Management Plan for Atlantic Herring (43 FR 60474)

Accompanying Environmental Impact Statement for Management Plan (43 FR 45637)

(h) *Agency contact:* Mr. Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, Phone: (617) 281–3600.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Whaling (50 CFR Part 230).

(a) *Description and Need for Regulation:* Regulations to govern the subsistence hunt for bowhead whales conducted by U.S. Eskimos in Alaska. Whaling activities conducted by U.S. citizens domestically are subject to the terms of the Whaling Convention Act which implements the International Convention for the Regulation of Whaling, 1946. Regulations are updated annually subject to International Whaling Commission actions.

(b) *Legal Authority:* Whaling Convention Act (16 U.S.C. 916a–1).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no , unknown X)

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (January 1980).

(ii) In final form (March 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Public meetings in Washington, D.C., and Anchorage, Alaska.

(f) *Major Issues Surrounding Proposed Regulatory Action:* Allocation of International Whaling Commission quota among whaling villages; licensing and reporting requirements on sighting, striking, and landing whales.

(g) *Documents Available to Interested Parties:* (1) Regulatory Analysis Required? (yes , no , unknown X); anticipated date of draft analysis (not determined).

(2) Other Documents Available: None

(h) *Agency Contact:* Mr. Richard B. Roe, Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, Phone: (202) 634–7461.

DOC Operating Unit

National Marine Fisheries Service, NOAA.

Title of Regulation

Trawl and Herring Gillnet Fishing in the Eastern Bering Sea Preliminary Fishery Management Plan (PMP).

(a) *Description and Need for Regulation:* Regulates foreign trawl and herring gillnet fishery in the Eastern Bering Sea.

(b) *Legal Authority:* 16 U.S.C. 1801 *et seq.*

(c) *Importance of Regulations:* (i) Is the regulation signficant? (yes X, no , unknown) (ii) Is the regulation major? (yes X, no , unknown).

(d) *Timetable—Anticipated Dates Proposal Will Appear in* **Federal Register:** (i) In proposed form (September 1979) (ii) In final form (November 1979).

(e) *Tentative Plan for Obtaining Public Comments:* Will be published as proposed regulations in **Federal Register.**

(f) *Major Issues Surrounding Proposed Regulatory Action:* Optimum yield of stocks; allocation among domestic users.

(g) *Documents Available to Interested Parties:* (1) Regulatory Analysis Required? (yes X, no , unknown); anticipated date of draft analysis (not determined).

(2) Other Documents Available:

Trawl and Herring Gillnet Fishery of the Bering Sea and Aleutian Islands PMP.

(h) *Agency contact:* Mr. Phillip Chitwood, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, Phone: (907) 586–7229.

DOC Operating Unit

Office of Coastal Zone Management.

Title of Regulation

Final Regulations for Key Largo Coral Reef Marine Sanctuary.

(a) *Description and Need for Regulation:* The regulations will be necessary to replace and update interim regulations to protect ecological, recreational and aesthetic resources of Key Largo Coral Reef Marine Sanctuary.

(b) *Legal Authority:* Section 302(f), Title 111 of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (Notice of Proposed Final Regulations—Summer or Fall 1979).

(ii) In final form (Notice of Final Rulemaking in **Federal Register**—Fall 1979).

(e) *Tentative Plan for Obtaining Public Comments:* Publishing the revised regulations in proposed form for comment in the **Federal Register.**

(f) *Major Issues Surrounding Proposed Regulatory Action:*

1. Whether to allow the taking of tropical fish for educational and public display purposes.

2. Whether to prohibit wire trap fishing.

(g) *Documents Available to Interested Parties:* Regulatory Analysis Required? (yes , no X, unknown)

2. *Other Documents Available:* Interim Regulations (15 CFR Part 929).

(h) *Agency Contact:* JoAnn Chandler, Acting Director, Sanctuary Programs Office, Office of Coastal Zone Management; (202) 634–4256.

DOC Operating Unit

Office of Coastal Zone Management.

Title of Regulation: Regulations for Proposed Georges Bank Marine Sanctuary (Tentative)

(a) *Description and Need for Regulation:* The regulations will be necessary to protect ecological and recreational resources of Georges Bank if the area is designated as a Marine Sanctuary.

(b) *Legal Authority:* Section 302(f), Title 111 of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes no , unknown X)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (Notice of Proposed Regulations and Notice of Availability of DEIS in **Federal Register**—October 1979)

(ii) In final form (Notice of Availability of FEIS and Notice of Final Rulemaking in **Federal Register**—February 1980)

(i) *Tentative Plan for Obtaining Public Comments:* Letters of consultation were sent to Federal agencies, State and local governments officials, concerned interest groups, and private concerns in June 1979. Future comments will be solicited by:

1. An issue Paper discussing the site and soliciting comments was widely distributed in late July 1979 and public workshops will be held in several New England States in mid August 1979.

2. Publishing the Notice of the DEIS, and the Notice of Proposed Rulemaking in the **Federal Register.**

3. Holding public hearings in the New England area on the DEIS, with extensive publicity through established mailing lists, and the press.

4. Publishing the Notice of the FEIS in the **Federal Register.**

5. Mailing to the New England Governors copies of the FEIS, the Notice of Proposed Rulemaking, and all other applicable documents.

(f) *Major Issues Surrounding Proposed Regulatory Action:*

1. Whether a marine sanctuary should be designated at Georges Bank.

2. The size of any sanctuary designated.

3. The type and extent of the regulation of activities necessary within the sanctuary to reduce unnecessary risks to marine fisheries, in particular the regulation of oil and gas development. The economic impact of oil and gas regulation and of regulating vessel activities are issues that will be of particular attention.

(g) *Documents Available to Interested Parties:*

1. Regulatory Analysis Required? (yes , no , unknown X)

2. Other Documents Available: Issue Paper.

(h) *Agency Contact:* JoAnn Chandler, Acting Director, Sanctuary Programs Office, Office of Coastal Zone Management (202) 634–4236.

DOC Operating Unit

Office of Coastal Zone Management.

Title of Regulation

Regulations for Proposed St. Thomas Marine Sanctuary, St. Thomas, Virgin Islands.

(a) *Description and Need for Regulation:* The regulations will be necessary to protect the ecological recreational and aesthetic resources of certain waters off St. Thomas if designated as a Marine Sanctuary.

(b) *Legal Authority:* Section 302(f), Title 111 of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (Notice of Proposed Regulations and Notice of Availability of DEIS in **Federal Register**—December 1979).

(ii) In final form (Notice of Availability of FEIS and Notice of Final Rulemaking in **Federal Register**—April 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Meetings were held in May and June 1979 with Virgin Islands government officials. Future comments will be solicited by:

1. An Issue Paper discussing the site and soliciting comments was distributed in mid-July 1979.

2. A public workshop will be held in mid-August 1979.

3. Notice of DEIS, and the Notice of Proposed Rulemaking will be published in the **Federal Register.**

4. A public hearing on the DEIS will be held in St. Thomas, with extensive publicity through established mailing lists, and the press.

5. Notice of the FEIS will be published in the **Federal Register.**

6. The Governor of the Virgin Islands will be mailed copies of the DEIS, Notice of Proposed Rulemaking and all other applicable documents.

(f) *Major Issues Surrounding Proposed Regulatory Action:*

1. Whether a marine sanctuary should be designated off St. Thomas;

2. The type and extent of the regulation of activities necessary within the sanctuary, in particular the regulation of boat anchoring and recreational diving.

(g) *Documents Available to Interested Parties:*

1. Regulatory Analysis Required? (yes , no X, unknown)

2. Other Documents Available: None to date.

(h) *Agency Contact:* JoAnn Chandler, Acting Director, Sanctuary Programs Office, Office of Coastal Zone Management; (202) 634–4236.

DOC Operating Unit

Office of Coastal Zone Management.

Title of Regulation

Regulations for Proposed Gray's Reef Marine Sanctuary.

(a) *Description and Need for Regulation:* The regulations will be necessary to protect the ecological, recreational and aesthetic resources of Gray's Reef, Georgia if designated as a Marine Sanctuary.

(b) *Legal Authority:* Section 302(f), Title 111 of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (Notice of Proposed Regulations and Notice of Availability of DEIS in **Federal Register**—April 1980).

(ii) In final form (Notice of Availability of FEIS and Notice of Final Rulemaking in **Federal Register**—July 1980).

(e) *Tentative Plan for Obtaining Public Comments:* A letter requesting consultation was sent in July 1979. An Issue Paper discussing the site and soliciting comments will be widely distributed in October 1979. A public workshop will be held in Georgia in January 1980 regarding the proposed designation of Gray's Reef as a Marine Sanctuary. Additional comment will be solicited by:

1. Publishing the Notice of the DEIS, and the Notice of Proposed Rulemaking in the **Federal Register.**

2. Holding a public hearing on the DEIS.

3. Publishing the FEIS in the **Federal Register.**

4. The Governor of Georgia will be mailed copies of the DEIS, Notice of Proposed Rulemaking, and all other applicable documents.

(f) *Major Issues Surrounding Proposed Regulatory Action:*

1. Whether a marine sanctuary should be designated at Gray's Reef;

2. The type and extent of the regulation of activities necessary within the sanctuary, in particular the regulation of activities affecting the reef.

(g) *Documents Available to Interested Parties:*

1. Regulatory Analysis Required? (yes , no X, unknown)

2. Other Documents Available: None to date.

(h) *Agency Contact:* JoAnn Chandler, Acting Director, Sanctuary Programs Office, Office of Coastal Zone Management; (202) 634–4236.

DOC Operating Unit

Office of Coastal Zone Management.

Title of Regulation

Regulations for Proposed Looe Key Marine Sanctuary.

(a) *Description and Need for Regulation:* The regulations will be necessary to protect the ecological, recreational and aesthetic resources of Looe Key if designated as a Marine Sanctuary.

(b) *Legal Authority:* Section 302(f), Title 111 of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (Notice of Proposed Regulations and Notice of Availability of DEIS in the **Federal Register**—February 1980).

(ii) In final form (Notice of Availability of FEIS and Notice of Final Rulemaking in **Federal Register**—June 1980).

(e) *Tentative Plan for Obtaining Public Comments:* A public workshop was held in Big Pine Key, Florida in January 1978 regarding the proposed designation of Looe Key as a Marine Sanctuary. Future comments will be solicited by:

1. Publishing the Notice of the DEIS, and the Notice of Proposed Rulemaking in the **Federal Register.**

2. Holding a public hearing on the DEIS.

3. Publishing the FEIS in the **Federal Register.**

4. The Governor of Florida will be mailed copies of the DEIS, Notice of Proposed Rulemaking, and all other applicable documents.

(f) *Major Issues Surrounding Proposed Regulatory Action:*

1. Whether a marine sanctuary should be designated at Looe Key;

2. The size of any sanctuary designated.

3. The type and extent of the regulation of activities necessary within the sanctuary, in particular the regulation activities affecting the coral reef.

(g) *Documents Available to Interested Parties:*

1. Regulatory Analysis Required? (yes , no X, unknown)

2. Other Documents Available:

Looe Key Resource Inventory.

(h) *Agency Contact:* JoAnn Chandler, Acting Director, Sanctuary Programs Office, Office of Coastal Zone Managment; (202) 634–4236.

DOC Operating Unit

Office of Coastal Zone Management.

Title of Regulation

Regulations for Proposed Monterey Bay Marine Sanctuary.

(a) *Description and Need for Regulation:* The regulations will be necessary to protect ecological, recreational and aesthetic resources of the waters of Monterey Bay and the adjacent coast if designated as a Marine Sanctuary.

(b) *Legal Authority:* Section 302(f), Title 111 of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (Notice of Proposed Regulations and Notice of Availability of DEIS in **Federal Register**—Fall 1979).

(ii) In final form (Notice of Availability of FEIS and Notice of Final Rulemaking in **Federal Register**—Winter 1980).

(e) *Tentative Plan for Obtaining Public Comments:* In April 1978 NOAA held a public workshop in Monterey, California. In December 1978 NOAA distributed an Issue Paper with regulatory options, and the California Coastal Commission held hearings on the Issue Paper in March and April 1979. Future comments will be solicited by:

1. Circulating preliminary draft chapters of the DEIS and holding public meetings in the affected areas.

2. Publishing the Notice of the DEIS, and the Notice of Proposed Rulemaking in the **Federal Register.**

3. Holding public hearings on the DEIS in Monterey area, with extensive publicity through established mailing lists, and the press.

4. Publishing the Notice of the FEIS in the **Federal Register.**

5. Mailing to the Governor of California a copy of the FEIS, the Notice of Proposed Rulemaking, and all other applicable documents.

(f) *Major Issues Surrounding Proposed Regulatory Action:*

1. Whether a marine sanctuary should be designated in the waters around the northern Channel Islands and Santa Barbara Island.

2. The size of any sanctuary designated.

3. The type and extent of the regulation of activities necessary within the sanctuary.

(g) *Documents Available to Interested Parties:*

1. Regulatory Analysis Required? (yes , no X, unknown)

2. *Other Documents Available:*

Issue Paper, Preliminary Chapters for DEIS.

(h) *Agency Contact:* JoAnn Chandler, Acting Director, Sanctuary Programs Office, Office of Coastal Zone Managment; (202) 634–4236.

DOC Operating Unit

Office of Coastal Zone Management.

Title of Regulation

Regulations for Proposed Point Reyes/ Farallon Islands Marine Sanctuary.

(a) *Description and Need for Regulation:* The regulations will be necessary to protect ecological, recreational and aesthetic resources of the waters around Point Reyes and the Farallon Islands if designated as a Marine Sanctuary.

(b) *Legal Authority:* Section 302(f), Title 111 of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (Notice of Proposed Regulations and Notice of Availability of DEIS in **Federal Register**—Fall 1979).

(ii) In final form (Notice of Availability of FEIS and Notice of Final Rulemaking in **Federal Register**—Winter 1980).

(e) *Tentative Plan for Obtaining Public Comments:* In April 1978 NOAA held a public workshop in Burlingame, California to discuss the recommendation of this site. In December 1978 NOAA distributed an Issue Paper with regulatory options, and the California Coastal Commission held public hearings on the Issue Paper. Future comments will be solicited by:

1. Circulating preliminary draft chapters of the DEIS and holding public meetings in the affected areas.

2. Publishing the Notice of the DEIS, and the Notice of Proposed Rulemaking in the **Federal Register.**

3. Holding public hearings on the DEIS in the Point Reyes area, with extensive publicity through established mailing lists, and the press.

4. Publishing the Notice of the FEIS in the **Federal Register.**

5. Mailing to the Governor of California a copy of the FEIS, the Notice of Proposed Rulemaking, and all other applicable documents.

(f) *Major Issues Surrounding Proposed Regulatory Action:*

1. Whether a marine sanctuary should be designated in the waters around Point Reyes and the Farallon Islands.

2. The type and extent of the regulation of activities necessary within the sanctuary.

(g) *Documents Available to Interested Parties:*

1. Regulatory Analysis Required? (yes , no X, unknown)

2. Other Documents Available:

Issue Paper, Preliminary Chapters for DEIS.

(h) *Agency Contact:* JoAnn Chandler, Acting Director, Sanctuary Programs Office, Office of Coastal Zone Management; (202) 634–4236.

DOC Operating Unit

Office of Coastal Zone Management.

Title of Regulation

Regulations for Proposed Flower Garden Banks Marine Sanctuary.

(a) *Description and Need for Regulations:* The regulations will be necessary to protect the ecological, recreational, and aesthetic resources of Flower Garden Banks if designated as a Marine Sanctuary.

(b) *Legal Authority:* Section 302(f), Title 111 of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:** In final form (Notice of Availability of FEIS and Notice of Final Rulemaking in **Federal Register**—September 1979).

(e) *Tentative Plan for Obtaining Public Comments:* The following has already been done to solicit comments:

1. A public workshop was held in Houston, Texas, in December 1977;

2. A White Paper discussing the site and soliciting comments was widely distributed in June 1978;

3. Two further meetings were held in Houston in July 1978, one with recreationists and one with offshore oil and gas companies.

4. The Notice of DEIS, and the Notice of Proposed Rulemaking was published in the **Federal Register** on April 13, 1979 (44 FR 22061).

5. Two public hearings on the DEIS were held, one in Texas and one in Louisiana, with extensive publicity through established mailing lists, and the press.

Future comments will be solicited by:

1. Publishing the Notice of the FEIS in the **Federal Register.**

2. Mailing to the Governors of Texas and Louisiana copies of the FEIS, the Notice of Proposed Rulemaking, and all other applicable documents.

(f) *Major Issues Surrounding Proposed Regulatory Action:*

1. Whether a marine sanctuary should be designated at Flower Garden Banks;

2. The type and extent of the regulation of activities necessary within the sanctuary, in particular the regulation of oil and gas development and vessel traffic. The economic impact of oil and gas regulation and any international legal implications of regulating vessel activities are issues that will be of particular attention.

(g) *Documents Available to Interested Parties:*

1. Regulatory Analysis Required? (yes , no X, unknown)

2. *Other Documents Available:*

White Paper, DEIS.

(h) *Agency Contact:* JoAnn Chandler, Acting Director, Sanctuary Programs Office, Office of Coastal Zone Management; (202) 634–4236.

DOC Operating Unit

Office of Coastal Zone Management.

Title of Regulation

Regulations for Proposed Channel Islands Marine Sanctuary.

(a) *Description and Need for Regulation:* The regulations will be necessary to protect ecological, recreational and aesthetic resources of the waters around the Northern Channel Islands and Santa Barbara Islands if designated as a Marine Sanctuary.

(b) *Legal Authority:* Section 302(f), Title 111 of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes X, no , unknown)

(d) *Timetable—Anticipated dates Proposal will Appear in* **Federal Register:**

(i) In proposed form (Notice of Proposed Regulations and Notice of Availability of DEIS in **Federal Register**—September 1979).

(ii) In final form (Notice of Availability of FEIS and Notice of Final Rulemaking in **Federal Register**—January 1980).

(e) *Tentative Plan for Obtaining Public Comments:* In April 1978 NOAA held a public workshop in Santa Barbara. In December 1978 NOAA distributed an Issue Paper with regulatory options, and the California Coastal Commission held hearings in Santa Barbara and San Francisco in March and April. In June 1979 NOAA sent out revised regulatory options and held public meetings in Ventura and Santa Barbara for comment. Future comments will be solicited by:

1. Publishing the Notice of the DEIS, and the Notice of Proposed Rulemaking in the **Federal Register.**

3. Holding public hearings on the DEIS in Santa Barbara and possibly Ventura, with extensive publicity through established mailing lists, and the press.

4. Publishing the Notice of the FEIS in the **Federal Register.**

5. Mailing to the Governor of California a copy of the FEIS, the Notice of Proposed Rulemaking, and all other applicable documents.

(f) *Major Issues Surrounding Proposed Regulatory Action:*

1. Whether a marine sanctuary should be designated in the waters around the Northern Channel Islands and Santa Barbara Island;

2. The size of any sanctuary designated.

3. The type and extent of the regulation of activities necessary within the sanctuary to reduce unnecessary risks to marine life, in particular the regulation of oil and gas development. The economic impact of oil and gas regulation will be of particular attention.

(g) *Documents Available to Interested Parties:* (1) Regulatory Analysis Required? (yes X, no , unknown)

(2) Other Documents Available:

Issue Paper, Preliminary Chapters for DEIS.

(h) *Agency Contact:* JoAnn Chandler, Acting Director, Sanctuary Programs Office, Office of Coastal Zone Management; (202) 634–4236.

DOC Operating Unit

Office of the Chief Economist, Office of Federal Statistical Policy and Standards.

Title of Regulation

Standard Metropolitan Statistical Classification—Revised Criteria.

(a) *Description and Need for Regulation:* The Federal Committee on Standard Metropolitan Statistical Areas has been considering changes in the criteria which define Standard Metropolitan Statistical Areas (SMSA's) an activity which is regularly done before a new decennial census is taken. The purpose of SMSA's is to provide a consistent way of presenting data about urban areas by all Federal agencies. The issues surrounding the current amendment process stem from: (1) The potential for allocating Federal funds according to SMSA status, and (2) Maintaining the status quo concerning local identity—several areas purport that their current status is advantageous in attracting and keeping business in the area.

(b) *Legal Authority:* Section 103 of the Budget and Accounting Procedures Act of 1950, 31 U.S.C. 18b, and EO 12013 (October 9, 1977).

(c) *Importance of Regulations:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (Proposal appeared in **Federal Register** on November 29, 1978. Comment period closed January 29, 1979).

(ii) In final form (Nov. 1979).

(e) *Tentative Plan for Obtaining Public Comments:* In addition to publication in the **Federal Register,** several hearings were held in Washington, D.C., and New Jersey. These hearings included testimony from Congressional representatives, State and local government representatives, local data collection enterprises, industry and the news media.

(f) *Major Issues Surrounding Proposed Regulatory Action:*

(1) The establishment of tiers of Metropolitan Statistical Areas (MSA's) as well as "consolidated" MSA's. Certain suburban areas object to being linked with their adjacent cities in a statistical manner and in a variety of other contexts.

(2) The exclusion of some primary rural counties that cannot be classified as metropolitan.

(3) The need for imporvement in the presentation of statistical data.

(g) *Documents Available to Interested Parties:*

Regulatory Analysis Required? (yes, no X, unknown)

(i) Anticipated date of draft analysis (NA).

(ii) Anticipated date of final analysis (NA).

(2) *Other Documents Available:*

All relevant documents are in the November 29 **Federal Register** notice and the public comments are available from OFSPS (see h).

(h) *Agency Contact:* Ms. Suzann K. Evinger, Office of Federal Statistical Policy and Standards, U.S. Department of Commerce, 2001 S Street, N.W., Room 701, Washington, D.C. 20230, (202) 673–7965.

DOC Operating Unit

Office of Minority Business Enterprise (OMBE).

Title of Regulatory

OMBE Financial Assistance Awards.

(a) *Description and Need for Regulation:* OMBE coordinates Federal activities designed to assist minority businesses, stimulates private sector efforts in support of minority enterprise, and provides financial assistance to private and public organizations that provide management and technical assistance to minority businesspersons, as authorized by Executive Order 11625. Implementing the Federal Grant and Cooperative Agreement Act of 1977, Public Law 95–224, these regulations not

only define and distinguish the kinds of OMBE financial assistance awards but also provides information on how to apply for them and the administrative requirements imposed. The primary benefit that these regulations will bring is the standardization of the usage and the clarification of the meaning of legal instruments reflecting Federal assistance relationships from Federal procurement relationships. Removal of uncertainty as to the meaning of such terms as "contract," "grant," and "cooperative agreement" and the relationships they reflect will reduce, if not altogether eliminate, operational inconsistencies, confusion, inefficiency and waste.

(b) *Legal Authority:* Title III of Public Law 95–431, October 10, 1978, and Executive Order 11625, October 13, 1971.

(c) *Importance of Regulation:* (i) Is the regulation significant? (yes X, no , unknown)

OMBE has indicated in DAO 218–7 (Appendix I, Section 2) that all regulations of the agency will be considered significant. (ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated Dates Proposal Will Appear in* **Federal Register:**

(i) In proposed form (*November 15, 1979).*

(ii) In final form (January 15, 1980).

(e) *Tentative Plan for Obtaining Public Comments:* Upon publication in the **Federal Register** of the proposed regulations on November 15, 1979, OMBE will review and consider all comments received prior to issuing the final regulations on *January 15, 1980.* Further, various public interest groups will be sent a copy of the proposed regulations simultaneously with its submission to the **Federal Register** for publication.

(f) *Major Issues Surrounding Proposed Regulatory Action:* The major issues involved in these regulations concern the determination of the existence of a competitive environment, and the meaning of substantial involvement. The determination of when or where "competition" is feasible is important since one of the purposes of Public Law 95–224 is "to maximize competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements." The question of "substantial involvement," on the other hand, is vital inasmuch as its anticipation or non-anticipation with the recipient during performance of the contemplated activity is decisive in categorizing it either as grant or cooperative agreement.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X, unknown)

(2) Other documents Available: None.

(h) *Agency Contact:* John Smith, Deputy Chief Counsel, OMBE, Room 5067, Dept. of Commerce, Washington, D.C., tel. 202/377–5641.

Office of Regional Development (Special Assistant for Regional Development)

Title: Regional Development Commissions; 13 CFR, Chapter V

(a) *Description and Need:* At the present time, the Special Assistant for Regional Development is reviewing all of the existing regulations applicable to regional commissions which are codified in Chapter V, Title 13, Code of Federal Regulations. This review will be completed by September 1, 1979. Also, proposed regulations govening some administrative procedures and operations of the regional commissions were published for public comment on June 7, 1979. The comment period for these regulations ends on August 6, 1979. Finally, bills are now pending before both houses of Congress which authorize a new regional development program. The new program will broaden the programmatic concerns of the regional commissions and make changes in several aspects of program administration. As a result of these three activities—reviewing existing rules, evaluating comments on the proposed regulations and complying with new legislation—this Office contemplates a complete revision of our existing regulations and additional modifications to the proposed regulations. The new set of regulations will cover all areas in which the Secretary is directed to act, including the designation of regions, changes in boundaries, commission fiscal and management practices, conditions for the transfer of funds, multiyear plan review, audit and records, the formula for distributing funds, evaluation procedures, the operation of a management information system, and nondiscrimination.

Development of a new, unified set of regulations will enable this Office to incorporate changes and additions required by law, take account of public comments, eliminate obsolete and unnecessary rules, better organize the rules by subject matter, and assure that all of the regulations are readable and understandable. We will also be able to eliminate a set of guidelines not currently codified in regulations.

(b) *Authority:* 42 U.S.C. 3181 *et seq.*; 42 U.S.C. 3211; Executive Order No. 11386; Department Organization Order 15–5.

(c) *Importance:*

(i) This new set of regulations is significant.

(ii) This new set of regulations is not a major Federal action.

(d) *Timetable:*

(i) Proposed form (November 1, 1979).

(ii) Final form (January 1, 1980).

(e) *Public Comment Plan:* Prior to publication, we will distribute copies of the proposed regulations to the Federal and State Cochairmen and to other commission principals for their review. At the time we publish in the **Federal Register**, we will also distribute copies for comment to the States and interested public groups.

(f) *Major Issues:* At this time, the major issue involved in the development of a unified set of regulations is the degree to which the program is changed by new legislation and the extent to which the Secretary must publish new regulations in order to implement the new law. Also, Congressional committees, the GAO and Departmental audits all indicate that actions must be taken in order to improve the accountability of regional commissions. Regulations are a logical choice for enabling the Secretary to assure compliance with the law and for providing guidance to these non-Federal entities. However, a major issue is how to keep the regulations required by the new law minimal in nature so as not to impose undue burdens on the commissions, while at the same time establishing greater accountability. It is anticipated that the new regulations will be the minimum which are necessary to provide accountability but flexible enough to allow the Secretary to approve individual commission efforts to correct problems in lieu of Departmental regulations.

(g) *Documents:*

(i) A regulatory analysis is required. Anticipated date (October 1, 1979).

(ii) Others: H.R. 2063, S. 835, audit reports on the regional commissions, OMB Circulars A–110, A–102.

(h) *Contact:* Ms. Jane Lollis, Chief Counsel, Office of Regional Development, Room 2087, Main Commerce Building, Washington, D.C. 20230, (202) 377–5203.

DOC Operating Unit

Patent and Trademark Office (PTO).

Title of Regulation

Interferences; motions before the primary examiner (37 CFR 1.231).

(a) *Description and Need for Regulation:* PTO is considering a

revision of its regulations, currently published in Title 37, Code of Federal Regulations, Part 1, relating to motions which rival inventors may file in interference proceedings conducted to determine who was the first inventor. No change in practice is involved. The revision is needed to prevent any misunderstanding and make it clear that after an interference has been redeclared, a motion is not permitted if it could have been filed earlier during the motion period and been considered by the primary examiner.

(b) *Legal Authority:* Public Law 593, 82d Cong., 2d Sess., ch. 950, Sec. 6, as amended (35 U.S.C. 6, as amended).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in the* **Federal Register:**

(i) In proposed form (January, 1980).

(ii) In final form (June, 1980).

(e) *Tentative Plan for Obtaining Public Comments:* PTO will publish its proposed revision of the regulations in the **Federal Register** and the *Official Gazette* and invite the public to submit comments. No public hearing will be held.

(f) *Major Issues Surrounding Proposed Regulatory Action:* No major issues are involved.

(g) *Documents Available to Interested Parties:*

(1) Regualtory Analysis Required? (yes , no X, unknown)

(2) Other Documents Available: None.

(h) *Agency Contact:* Ian A. Calvert. Chairman, Board of Patent Interferences, Commissioner of Patents and Trademarks, Washington, D.C. 20231, (703) 557–3625.

DOC Operating Unit

Patent and Trademark Office (PTO).

Title of Regulation

Amending patent applications to correct inventorship. (37 CFR 1.45)

(a) *Description and Need for Regulation:* PTO is considering a revision of its regulations, currently published in Title 37, Code of Federal Regulations, Part 1, to permit the substitution of one sole inventor for another sole inventor in patent applications under appropriate circumstances. The revision is needed in order to remove restrictions against this type of substitution under the circumstances existing in *Stoddard* v. *Dann*, 564 F.2d 556, 195 USPQ 97 (D.C. Cir. 1977).

(b) *Legal Authority:* Public Law 593, 82d Cong. 2d Sess., ch. 950, Sec. 6, as amended (35 U.S.C. 6, as amended).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in the* **Federal Register:**

(i) In proposed form (December, 1979).

(ii) In final form (August, 1980).

(e) *Tentative Plan for Obtaining Public Comments:* PTO will publish its proposed revision of the regulations in the **Federal Register** and the *Official Gazette* and invite the public to submit comments. A public hearing may be held.

(f) *Major Issues Surrounding Proposed Regulatory Action:* The major issues involved in the revision under consideration are whether the PTO should authorize substitution of one sole inventor for another under the circumstances in *Stoddard* v. *Dann* and how these circumstances should be defined.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X, unknown)

(2) Other Documents Available: None.

(h) *Agency Contact:* William Feldman, Deputy Assistant Commissioner for Patents, Commissioner of Patents and Trademarks, Washington, D.C. 20231, (703) 557–2012.

DOC Operating Unit

Patent and Trademark Office (PTO).

Title of Regulation

Deposit of computer program listings. (37 CFR 1.21 and 1.96.)

(a) *Description and Need for Regulation:* PTO proposes to revise its regulations relating to patent application disclosures, currently published in Title 37, Code of Federal Regulations, Part 1, to allow lengthy computer program listings to be deposited in the PTO and incorporated by reference in the patent application to the deposited listing. Under current regulations, lengthy computer program listings must be reproduced in the specification or the drawings as integral parts of a patent application. The proposed revision will benefit patent applicants by relieving them of the burden and expense of reproducing lengthy computer program listings in the specification or the drawings of a patent application. The PTO and patent applicants will both benefit from a reduction in the cost of printing patents which do not include a lengthy computer program listing in the specification or drawings.

(b) *Legal Authority:* Public Law 593, 82d Cong., 2d Sess., ch. 950, Sec. 6, as amended (35 USC Section 6, as amended).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (has been published)

(ii) In final form (October, 1979)

(e) *Tentative Plan for Obtaining Public Comments:* PTO published the proposed revision in the **Federal Register** (42 FR 30522, June 15, 1977) for comment and held a public hearing.

(f) *Major Issues Surrounding Proposed Regulatory Action:* None.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X, unknown)

(2) Other Documents Available: A file of the written comments received by the PTO, a summary and analysis of the comments and a transcript of the hearing will be available for examination by interested parties.

(h) *Agency Contact:* Louis O. Maassel, Editor of the Manual of Patent Examining Procedure, Commissioner of Patents and Trademarks, Washington, D.C. 20231, (703) 557–3070.

DOC Operating Unit

Patent and Trademark Office (PTO).

Title of Regulation

Prosecution of patent applications after final rejection. (37 CFR 1.113 and 1.116)

(a) *Description and Need for Regulation:* PTO is considering a revision of its regulations relating to the closing of prosecution in patent applications, currently published in Title 37, Code of Federal Regulations, Part 1, to remove limitations against continuing the prosecution of patent applications after a final rejection. The revision under consideration would permit prosecution of a patent application to continue after a final rejection if an additional fee is paid. The revision will benefit patent applicants by making it unnecessary for them to file a second application in order to continue prosecution after a final rejection in the original application. The PTO will benefit from a saving in file space and a reduction in handling and recordkeeping costs.

(b) *Legal Authority:* Public Law 593, 82nd Cong., 2d Sess., ch. 950, sec. 6, as amended (35 U.S.C. 6, as amended).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (December, 1979)

(ii) In final form (July 1980)

(e) *Tentative Plan for Obtaining Public Comments:* PTO will publish its proposed revision in the **Federal Register** and the *Official Gazette* for comment. A public hearing may be held.

(f) *Major Issues Surrounding Proposed Regulatory Action:* The major issue involved in the revision under consideration is whether such revision is within the Commissioner's rulemaking authority or will require legislative authorization.

(g) *Documents Available to Interested Parties:*

1. Regulatory Analysis Required? (yes , no X, unknown)

2. Other Documents Available: None.

(h) *Agency Contact:* Louis O. Maassel, Editor of the Manual of Patent Examining Procedure, Commissioner of Patents and Trademarks, Washington, D.C. 20231, (703) 557–3070.

DOC Operating Unit

Patent and Trademark Office (PTO).

Title of Regulation

Examination of reissue applications. (37 CFR 1.176)

(a) *Description and need for Regulation:* PTO is considering a revision of its regulation relating to the examination of reissue applications, currently published in Title 37, Code of Federal Regulations, Part 1. The current regulation defers the examination of a reissue application until two months after its filing has been announced in the *Offical Gazette* to afford an opportunity for members of the public to call to the PTO's attention evidence relevant to the patent-ability of the original patent claims. The revision under consideration would allow examination to be undertaken as soon as possible after the reissue application has been filed if the original patent is in litigation. Expediting the examination will benefit Federal courts which have stayed litigation to allow the PTO to complete its examination of a reissue application.

(b) *Legal Authority:* Public Law 593, 82d Cong., 2d Sess., ch. 950, Sec. 6, as amended (35 U.S.C. 6 as amended).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated dates the Proposal will appear in the* **Federal Register:**

(i) In proposed form (December, 1979)

(ii) In final form (June, 1980)

(e) *Tentative Plan for Obtaining Public Comments:* PTO will publish a proposed revision of the regulation in the **Federal Register** and the *official Gazette* for comment. A public hearing will be held.

(f) *Major Issues Surrounding Proposed Regulatory Action:* The major issue involved in the revision under consideration is whether expediting the examination will have an adverse effect on the ability of the public to call the PTO's attention to evidence relevant to the patentability of the original patent claims.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X, unknown)

(2) Other Documents Available: None.

(h) *Agency Contact:* R. F. Burnett, Special Assistant to the Assistant Commissioner for Patents, Commissioner of Patents and Trademarks, Washington, D.C. 20231, (703) 557–3054.

DOC Operating Unit

Patent and Trademark Office (PTO).

Title of Regulation

Recording interest in patents, trademarks, patent applications and trademark applications. (37 CFR § 1.331–334 and 2.185–187)

(a) *Description and Need for Regulation:* PTO is considering an amendment of its regulations governing the recording of assignments and other interests in patents, trademarks, patent applications and trademark applications currently published in Title 37, Code of Federal Regulations, Parts 1 and 2. The current regulations do not specifically identify every type of instrument which might be recordable but currently is not being recorded. The amendment being considered by the PTO would provide specific authorization to record those recordable instruments which are not identified in the current regulations, and therefore are not now being recorded. The public will benefit from having more complete information available concerning the title, and encumbrances on the title, to patents, trademarks, patent applications and trademark applications.

(b) *Legal Authority:* Public Law 593, 82d Cong., 2d Sess., ch. 950, Secs. 6 and 261 as amended (35 USC 6 and 261, as amended); Public Law 489, 79th Cong., 2d Sess., ch. 540, Secs. 10 and 41, as amended (15 USC 1060 and 1123, as amended).

(c) *Importance of Regulation:*

(i) Is the regulations significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register**

(i) In proposed form (November, 1979).

(ii) In final form (May, 1980).

(e) *Tentative Plan for Obtaining Public Comments:* PTO will publish its proposed amendment of the regulations in the **Federal Register** and the *Official Gazette* for comment.

(f) *Major Issues Surrounding Proposed Regulatory Action:* The major issue involved in the proposed amendment is whether it is in fact necessary. Do the current regulations provide adequate authority for recording specific types of instruments not expressly identified in the regulations? Would a notice in the *Official Gazette,* interpreting the current regulations, provide an adequate and satisfactory alternative?

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X, unknown)

(2) Other Documents Available: None.

(h) *Agency Contact:* Herbert C. Wamsley, Executive Assistant to the Commissioner, Commissioner of Patents and Trademarks, Washington, D.C. 20231, (703) 557–3071.

DOC Operating Unit

Patent and Trademark Office (PTO).

Title of Regulation

Professional conduct of and advertising by persons registered to practice before the PTO. (37 CFR 1.344, 1.345, 2.13 and 2.14).

(a) *Description and Need for Regulation:* PTO is considering a revision of its regulations prescribing the standards of conduct and advertising of persons registered to practice before the PTO, currently published in Title 37, Code of Federal Regulations, Parts 1 and 2. PTO proposes to revise these regulations to make reference to the current version of the American Bar Association's "Code of Professional Responsibility," an older version being referred to in the current regulations, and to make the standards for advertising consistent with recent decisions of the Supreme Court.

(b) *Legal Authority:* Public Law 593, 82d Cong., 2d Sess., ch. 950, Sections 6 and 31, as amended (35 USC 6 and 31, as amended).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (October, 1979).

(ii) In final form (April, 1980).

(e) *Tentative Plan for Obtaining Public Comments:* PTO will publish the proposed revision of these regulations in the **Federal Register** and the *Official Gazette* for comment. A public hearing will also be held.

(f) *Major Issues Surrounding Proposed Regulatory Action:* The major issue involved in the proposed revision is whether the American Bar Association's "Code of Professional Responsibility" should continue to be the PTO's standard of conduct.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X, unknown)

(2) Other Documents Available: None.

(h) *Agency Contact:* Harry I. Moatz, Commissioner of Patents and Trademarks, Washington, D.C. 20231, (703) 557–2238.

DOC Operating Unit

Patent and Trademark Office (PTO).

Title of Regulation

Compulsory counterclaims in trademark opposition and cancellation proceedings (37 CFR 2.106 and 2.114).

(a) *Description and Need for Regulation:* PTO is considering a revision of its regulations relating to counterclaims in trademark cases, currently published in Title 37, Code of Federal Regulations, Part 2. Defendants who could counterclaim to cancel a registration pleaded by the plaintiff in trademark opposition and cancellation cases are not required by current regulations to do so. The revision under consideration would require the defendant to do so. The primary benefit of the revision will be to avoid piecemeal litigation and settle all issues between the parties at one time with a minimum expenditure of time and effort by the parties and the PTO.

(b) *Legal Authority:* Public Law 489, 79th Cong., 2d Sess., ch. 540, Sec. 41, as amended (15 U.S.C. Section 1123, as amended).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in the* **Federal Register:**

(i) In proposed form (has been published).

(ii) In final form (September, 1979).

(e) *Tentative Plan for Obtaining Public Comments:* PTO published the proposed revision in the **Federal Register** (44 FR 22478, April 16, 1979) and the *Official Gazette* for comment.

(f) *Major Issues Surrounding Proposed Regulatory Action:* The major issue involved in the revision being considered by the PTO is whether a defendant would, in certain circumstances be precluded from filing a concurrent use application if he is required to counterclaim for cancellation of a registration pleaded by the plaintiff.

(g) *Documents Available to Interested Parties:*

(1) Regulatory Analysis Required? (yes , no X, unknown)

(2) Other Documents Available: A file of the comments the PTO has received and a summary and analysis of the comments will be available for examination by interested parties.

(h) *Agency Contact:* David J. Kera, Member, Trademark Trial and Appeal Board, Commissioner of Patents and Trademarks, Washington, D.C. 20231, (703) 557–3551.

DOC Operating Unit

Patent and Trademark Office (PTO).

Title of Regulation

Patent application oath or declaration requirements (37 CFR 1.65, 3.18, and 3.18a).

(a) *Description and Need for Regulation:* PTO proposes to revise its regulations relating to the information patent applicants are required to provide in their oaths or declarations in patent applications, currently published in Title 37, Code of Federal Regulations, Part 1. PTO proposes to revise these regulations to require (1) that an oath or declaration acknowledge the "best mode" requirement of the patent law, and (2) that it speak as of the filing date of the application if the application is a continuation-in-part. These two requirements will provide information that court decisions indicate should be considered by the PTO in examining patent applications.

(b) *Legal Authority:* Public Law 593, 82d Cong., 2d Sess., ch. 950, Sec. 6, as amended (35 U.S.C. § 6, as amended).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(i) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in the* **Federal Register.**

(i) In proposed form (published 43 FR 55417, November 28, 1978)

(ii) In final form (October, 1979)

(e) *Tentative Plan for Obtaining Public Comments:* PTO has published the proposed revision in the **Federal Register** for comment and held a public hearing on February 7, 1979.

(f) *Major Issues Surrounding Proposed Regulatory Action:* There are no major issues involved in the proposed revision.

(g) *Documents Available to Interested Parties:* (1) Regulatory Analysis Required? (yes , no X, unknown)

(2) Other Documents Available: A file of the written comments received by the PTO, a transcript of the hearing and a summary and analysis of comments will be available for examination by interested parties.

(h) *Agency Contact:* Louis O. Maassel, Editor of the Manual of Patent Examining Procedure, Commission of Patents and Trademarks, Washington, D.C. 20231, (703) 557–3070.

DOC Operating Unit

Patent and Trademark Office (PTO).

Title of Regulation

Advisory opinions by the PTO on the validity of patents.

(a) *Description and Need for Regulation:* PTO proposes to revise its regulations, currently published in Title 37, Code of Federal Regulations, Part 1, to provide for an advisory opinion to be given by the PTO on the validity of a patent at the request of a member of the public upon payment of an appropriate fee. The proposed revision is limited to prior patents and publications which are pertinent to the validity of the patent but were not considered by the PTO before granting the patent. An advisory opinion will not be binding on any court but will give the courts the benefit of the PTO's opinion on prior art that a court otherwise would be called upon to evaluate in the first instance.

(b) *Legal Authority:* Public Law 593, 82d Cong., 2d Sess., ch. 950, Sec. 6, as amended (35 USC 6, as amended).

(c) *Importance of Regulation:*

(i) Is the regulation significant? (yes X, no , unknown)

(ii) Is the regulation major? (yes , no X, unknown)

(d) *Timetable: Anticipated dates Proposal will appear in* **Federal Register:**

(i) In proposed form (has been published).

(ii) In final form (postponed until further notice).

(e) *Tentative Plan for Obtaining Public Comments:* PTO has published the proposed revision in the **Federal Register** (43 FR 59401, December 20, 1978) and the *Official Gazette* for comment. A public hearing was scheduled but has been postponed until further notice.

(f) *Major Issues Surrounding Proposed Regulatory Action:* The major issues involved in the proposed revision concern the scope of the proposal, who should give the advisory opinion and review of advisory opinions. Should advisory opinions be limited to consideration of prior patents and publications or be expanded to include consideration of prior public uses and sales, fraud and failure to comply with the duty of disclosure, and inadequacy of the specification? Should an advisory opinion be given by the same examiner who issued the patent, or by a different examiner? Should some form of direct review of advisory opinions be provided within the PTO?

(g) *Documents Available to Interested Parties:*

1. Regulatory Analysis Required? (yes , no X, unknown)

2. Other Documents Available: A file of the comments the PTO receives, a transcript of any hearing to be held and a summary and analysis of comments will be available for examination by interested parties.

(h) *Agency Contact:* Herbert C. Wamsley, Executive Assistant to the Commissioner, Commissioner of Patents and Trademarks, Washington, D.C. 20231 (703) 557–3071.

[FR Doc. 79-28662 Filed 9-17-79; 8:45 am]

BILLING CODE 3510-17-M

federal register

Tuesday
September 18, 1979

Part III

Environmental Protection Agency

Guidelines for Specification of Disposal Sites for Dredged or Fill Material

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 230]

[FRL 1241-3]

Guidelines for Specification of Disposal Sites for Dredged or Fill Material

AGENCY: Environmental Protection Agency.

ACTION: Proposed regulation.

SUMMARY: These Guidelines revise and clarify the September 5, 1975 interim final Guidelines regarding discharge of dredged or fill material into waters of the U.S. in order to:

(1) reflect the 1977 Amendments of section 404 of the Clean Water Act;

(2) correct inadequacies in the interim final Guidelines by filling gaps in explanations of unacceptable adverse impacts on aquatic and wetland ecosystems and by requiring documentation of compliance with the Guidelines; and

(3) produce a final rulemaking document.

The existing interim final Guidelines will remain in effect until the effective date of these revised Guidelines.

DATES: All comments received on or before November 19, 1979 will be considered.

ADDRESS: Send written comments to: Kenneth Mackenthun, Criteria and Standards Division, Office of Water and Waste Management, (WH-558), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Each person submitting a comment should include his or her name and address and give reasons for any recommendations. A copy of all public comments will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Kenneth Mackenthun, 202-755-0100.

Supplementary Information

Background

The Federal Water Pollution Control Act (FWPCA) Amendments of 1972 established a new permit program for the discharge of dredged or fill material in navigable waters. Under section 404 of the FWPCA, the Corps of Engineers (COE) specifies disposal sites based on application of Guidelines developed by the Administrator of EPA in conjunction with the Secretary of the Army acting through the Chief of Engineers. (Hereinafter, "404(b)(1) Guidelines" or "Guidelines"). In any case where such Guidelines alone would prohibit the specification of a disposal site, the Corps may still specify a site through the additional application of the economic impact of the site on navigation and anchorage. The Administrator may deny or restrict the specification or use of any disposal when he determines, after the opportunity for hearing and consultation with the COE, that a discharge will have unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas) wildlife, or recreational areas.

The interim final Guidelines recognized that all aspects of aquatic ecosystems, including wetlands, may be affected by the discharge of dredged or fill material. The concept of critically important components of sites of the aquatic environment was set forth in the Guidelines and nine such components were identified. The Guidelines emphasized the importance of wetlands as a component of the aquatic environment. They identified the values associated with wetlands and specified methods of preventing or minimizing impacts of the discharge of dredged or fill material on wetlands. The interim final Guidelines also set out procedures for testing material proposed for discharge in order to predict unacceptable impact on aquatic organisms.

The COE regulations were revised, extensively reorganized, and repromulgated on July 19, 1977. The regulations established certain "Nationwide" permits in accordance with the concept of General or categorical permits in § 230.6 of the interim final guidelines. In enacting section 404(e) of the 1977 Clean Water Act Amendments, Congress also approved the use of general permits, including nationwide permits, to minimize administrative involvement in activities that have minimal individual or cumulative adverse impact on the aquatic and wetlands ecosystems. Greater use of General Permits is expected in the future.

Section 404 became the focus of considerable debate in the 95th Congress. In December 1977, the FWPCA was amended and substantial changes were made in section 404. The amendments specified several additional applications of the Guidelines: (1) General permits shall be based on 404(b)(1) Guidelines; (2) a State desiring to administer permit program in certain waters must use and assure compliance with the 404(b)(1) Guidelines; (3) the Administrator of EPA can withdraw a State program or prevent a State from issuing a permit if the State fails to comply with the 404(b)(1) Guidelines; (4) in order for the construction of a Federal project to be exempted under section 404(r), its EIS must include consideration of the 404(b)(1) Guidelines, and (5) best management practices prepared under a 208(b)(4) (B) and (C) statewide regulatory program must comply with the 404(b)(1) Guidelines.

Although the Clean Water Act uses the term "Guidelines" in section 404(b)(1), the requirements placed on their use in the Amendments demonstrate that they are regulatory in nature.

The interim final guidelines incorporated by reference the definition for "discharge or fill material" among other definitions from 33 CFR 209.120(d). Sanitary landfills were included among the examples of discharges of fill material into navigable waters. Current COE regulations (33 CFR 320) require a section 404 permit for fill material discharged into waters of the U.S. to construct a levee or dike for the rentention of solid waste. The discharge of solid waste within such retention structures is currently subject to regulation under section 402 of the Clean Water Act. Sanitary landfills in waters of the U.S. are now the subject of policy discussions among organizational units of EPA and the Corps of Engineers, with a view to the possibility of consolidating the regulation of such activities under a single regulatory authority.

Purpose and Content of the Guidelines

The purpose of the section 404(b)(1) Guidelines is to carry out the objective of the Act: to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. To accomplish that objective, it is necessary to control degradation of waters of the U.S. attributable to the discharge of dredged or fill material. The Guidelines are concerned with aquatic ecosystems because all parts of the systems are related and disruption of one part can cause changes in other parts. In many cases, such changes are foreseeable.

Waters of the U.S. vary greatly with respect to biogeographical characteristics. In addition, the use of those waters varies around the Nation as do the methods of discharging dredged or fill material. These and other variations make it unrealistic at this time to arrive at numerical criteria or standards for toxic or hazardous substances to be applied on a nationwide basis. The susceptibility of

wetlands to destruction by purely physical placement of dredged or fill material and the wide national variation in amount and quality of wetlands further complicate the problem of arriving at nationwide standards. As a result, the Guidelines concentrate on specifying the tools to be used in evaluating and testing the impact of dredged or fill material discharges on waters of the U.S.

The Guidelines also explain the appropriate use of these tools in particular circumstances to ensure that the objectives of the Act are met without unnecessary burden. Comments interspersed in the text provide further explanations and examples as appropriate.

Guideline Organization

The Guidelines are organized into nine Subparts, each of which is subdivided into numbered sections. After presenting general material such as policy and definitions, the Subparts deal with compliance; general physical, chemical and biological evaluations and tests and determinations; physical and chemical components of the aquatic and wetlands environment; special aquatic and wetlands sites; communities and populations of organisms dependent on water quality; human use characteristics; habitat development and restoration of water bodies; and general provisions, including consideration of cumulative and secondary impacts on the aquatic ecosystem. Factors that must be considered for every permit application are grouped into Subparts A through D. Factors that are important, but are not pertinent for every site for which a permit application is made, are grouped in Subparts E through G. Subpart H treats special processes and procedures. Material in Subparts D through G (chemical, physical, and biological characteristics of special aquatic environments and their human uses) has been organized in terms of values, possible loss of values due to discharge of dredged or fill material, methods of avoiding loss of values, and determinations that should be made in arriving at a finding of compliance with the Guidelines.

Documentation of Guideline Application and Compliance

Specific documentation is important to the permit applicant, the permitting authority, and any reviewing authority to ensure an understanding of the basis for each decision to allow, condition, or prohibit a discharge through application of the Guidelines. Documentation of information is required for: (1) facts and data gathered in the evaluation and testing of the extraction site, the material to be discharged, and the disposal site; (2) factual determinations regarding changes that can be expected at the disposal site if the discharge is made as proposed; and (3) findings regarding compliance with regulatory conditions involving mandatory standards, prevention of adverse impacts, and minimization of adverse impacts where practicable.

Documentation provides a record of actions taken that can be evaluated for adequacy and accuracy and ensures consideration of all important impacts in the evaluation of a permit application. The specific requirements for documentation in any given case depend on the level of investigation necessary to provide sufficient information about the extraction site, the material to be discharged, and the disposal site to provide a basis for a reasonable understanding of the impact on the aquatic and wetlands ecosystems.

Major Issues

Several important areas of the Guidelines involve important questions of policy which give rise to possible alternative treatments. This Preamble identifies for each issue the approach that has been selected and incorporated into the Guidelines and explains why this approach was selected. However, it should be noted that there remains an opportunity to alter these positions prior to final publication based upon analysis of informed public comment.

Issue Number 1. What are the requirements and limitations for the evaluation and consideration of practicable alternatives? [230.10(a)]

a. Is it necessary to consider additional alternatives where an initial evaluation under 404(b)(1) Guidelines shows that there would be adverse impacts from the initially proposed alternative but that those impacts could be judged "acceptable" within the context of 404(b)(1) Guidelines?

Approach Used in the Guidelines: The proposed revisions to the Guidelines take the position that even where the initial 404(b)(1) Guidelines evaluation shows that impacts fall within an "acceptable" range, it remains necessary to examine and consider practicable alternatives with even less damaging environmental impacts.

Reasons for Selecting This Approach: The 403(c) criteria (on which the Guidelines are statutorily required to be based) include "other possible locations and methods of disposal or recycling of pollutants including land-based alternatives." A national goal of the Clean Water Act is "that the discharge of pollutants into the navigable waters be eliminated by 1985." Moreover, the National Environmental Policy Act (NEPA) also imposes an obligation upon Federal agencies to interpret and administer regulations in accordance with the policies of NEPA. The courts have held repeatedly that the consideration of alternatives is the "linchpin" of NEPA. If impacts on wetlands or other special aquatic resources are to be prevented or minimized, then it is essential to identify least damaging practicable alternatives for the permitting authority's consideration in determining whether, and on what terms, the permit should be issued.

Further, in connection with wetlands, EPA Administrator's Statement Number 4, Protecing Our Nation's Wetlands, states that it is the Agency's policy in its decision process to preserve and protect wetlands from damaging misuses. Implementation of this policy requires that alternatives be evaluated and that the least damaging alternative be selected where practicable. Executive Order 11990, Protection of Wetlands, provides an additional foundation for requiring a broad consideration of alternatives in programs intended to protect wetlands through its directive for Federal agencies to take action to minimize the destruction, loss, (or) degradation of wetlands, and to preserve and enhance the natural and beneficial value of wetlands in carrying out programs affecting land use, including but not limited to water and related land resource planning and regulating and licensing activities.

Although the Executive Order does not apply to individual permit actions by private parties in non-Federal wetlands, it does apply to regulations which affect wetlands, such as the 404(b) guidelines.

b. What range of alternatives must be considered?

Approach Used in the Guidelines: The proposed revision requires that the evaluation of practicable alternatives must take into account *all* alternatives which meet the criteria of practicability, which as used here includes consideration of economic, technical, and logistical feasibility. The spectrum of alternatives considered should include both so-called "internal" alternatives (modifications to the activity within the scope of the application itself such as timing of discharge, alternate locations at the same general site, mitigating measures, etc.) and "external" alternatives (such as major modifications in the nature of the proposed activity or change in site *outside* the site proposed in the permit application.

Reasons for Selecting This Approach: External alternatives are not practicable if they fail to achieve the fundamental purpose of the proposed activity.

Consideration of "internal" alternatives needs little justification beyond the application of common sense. If the applicant has within his immediate capability an alteration in the project which will lessen the environmental impact, yet remain practicable, he should certainly implement it. Moreover, it is entirely possible that such an evaluation might even result in a *lower* cost project when such a broader evaluation is carried out. This is particularly plausible when considering the problems of erosion, flood damage, materials decomposition, etc., which are often of concern with construction in or near the water.

Support for the proposition that alternatives should also include "external" factors comes from: (1) section 403 of the Act; (2) NEPA; and (3) past practice. Section 403(c)(1)(F) specifically refers to other possible locations and methods of disposal, without limitations. Also, cases under NEPA and CEQ regulations, which are relevant by analogy, have held that even alternatives which are outside the existing authority of the agency must be considered. In addition, several 404 cases have involved consideration of alternatives sites not owned by the applicant. Discharges into the waters of the U.S. are allowed only through a permit process under which the applicant's interest in conducting a discharge is subject to the national interest in maintaining the integrity of the Nation's waters. However, it should be noted that the intent here is not to require consideration of the extreme or the absurd, but only those alternatives which are truly practicable. It is expected that the "Rule of Reason" shall be applied in the context of this alternatives test. The size of the activity and its impact will certainly be major factors in determining how far the search for alternatives should go.

c. Must the least damaging practicable alternative be selected, and can any alternative be accepted so long as it does not have "unacceptable" impacts?

Approach Used in the Guidelines: Generally the least damaging, yet practicable, alternative should be selected. In the case of discharges of *fill* material into *wetlands,* water dependency for the proposed activity should be considered a mandatory condition of compliance except upon the finding that other siting or construction alternatives are not practicable and the proposed fill will not cause a permanent adverse disruption to beneficial water quality uses of the system.

Reasons for Selecting This Approach: Support for the proposition that the least damaging alternative should be selected can be found in part in the statement of goals of the Clean Water Act. Section 101 provides that it is the goal of the Act to Maintain the chemical, physical, and biological integrity of the Nation's waters and to eliminate the discharge of pollutants (including dredge material, rock, and sand as defined in section 502) into the navigable waters. A selection of a more damaging practicable alternative over a less damaging one would be inconsistent with those goals particularly when the less damaging alternative is obvious and easily identified. Moreover, the mere requirement that alternatives be considered implies that where practicable, the less harmful choice will be made. Otherwise, the consideration of alternatives would be a mere formality.

d. Is identification of a least damaging practicable alternative on the basis of the section 404(b)(1) evaluation decision as to the outcome of the NEPA and/or Public Interest Review (PIR) alternatives evaluation?

Approach used in the Guidelines: The alternatives evaluation within the section 404(b)(1) Guidelines is separate and distinct from the NEPA and PIR alternatives evaluation. If the § 404(b)(1) review leads to a finding in favor of specification of a proposed site, that finding does not obviate the requirement for further alternatives evaluation of the proposed work via the requirements of NEPA and the PIR.

Reason for Selecting this Alternative: The requirements of NEPA and PIR take into account a broader range of environmental and other factors (e.g. air quality impacts, esthetics, of extent of public need for the proposed project) than those required to be considered by the Guidelines. Accordingly, in cases where the Guidelines themselves do not preclude the specification of a proposed disposal site, the more comprehensive requirements of NEPA and PIR may nevertheless lead to a decision to deny the requested permit.

Issue Number 2. Are water quality standards violation and violations of 307(a) standards the only grounds for findings of unacceptable adverse impacts within the context of 404(b)(1) Guidelines or can such findings be based upon a broader consideration of effects on the aquatic ecosystem?

Approach Used in the Guidelines: Any finding of acceptability of impact within the context of 404(b)(1) Guidelines (i.e., specification or non-specification of the site) *must* be made on the basis of *all* of the conditions of compliance under these 404(b)(1) Guidelines. That is, it must be based upon determinations of impact on the aquatic ecosystem, including such factors as wildlife habitat, commercial fisheries, and modifications of currents, as well as water quality and toxic pollutant standards.

Reasons for Selecting This Approach: The language of section 404(b)(1) itself supports a broad view of the impacts to be addressed in the Guidelines. That section says that the Guidelines shall be based on criteria "comparable" to the criteria in section 403(c). Thus, the section 404(b)(1) Guidelines are intended to be as broad in scope as the section 403 criteria. The section 403 criteria clearly include ecological concerns above and beyond the baseline numercial parameters of water quality (See Section 403(c)(1)(B), (C), and (G)). Moverover, section 404(b)(1) says that the Guidelines are to be based on criteria *comparable* to those of section 403. Thus, Congress recognized that the material to be disposed of under section 404 might be different from materials typically disposed of at sea and that section 404 waters might be affected somewhat differently than the seas. Finally, the wording of section 404(b) makes it clear that a site may be prohibited on the basis of such Guidelines "alone," implying that the broader considerations of ecological effect were to be dealt with in the context of the 404(b) decisions.

The fact that section 404(c) [1] goes beyond strict water quality consideration also supports the scope of the (b)(1) Guidelines. On its face, 404(c) is not limited to considerations of water quality since it refers to "unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife or recreational areas." In addition, since section 404(c) can be used before there is an application for a permit, it clearly contemplates consideration of the ecological characteristics of the site alone, wholly apart from the contaminants in a particular discharge.

The breadth of section 404(c) is relevant because of relationship between section 404(b) and (c). Senator Muskie's opening statement of the 1972 Conference Report explains that EPA has two opportunities for imput, apart from 309 authority; first, EPA develops

[1] Section 404(c) allows the Administrator to veto a site if a discharge of dredged or fill material will have an "unaceptable adverse effect" on enumerated resources.

the section 404(b)(1) Guidelines which serve as a general, advance guidance for the 404 program; second, EPA has an opportunity to police the application of those Guidelines by evaluating the ecologic implications of a particular permit under 404(C) (Legislative History of the Federal Water Pollution Control Act prepared by the Congressional Research Service of the Library of Congress. Vol. 1, page 177). If, on the other hand, the section 404(b)(1) Guidelines were narrower in scope than section 404(c), the permitting authority would continually be issuing permits which, although admittedly in compliance with EPA's Guidelines, would be subject to veto by the Administrator. It seems improbable that Congress intended the program to operate in such a manner.

Another indication that the section 404(b)(1) Guidelines were expected to include environmental effects generally can be found in section 404(e). That section allows the Corps to issue general permits when it determines that the separate and cumulative impacts of a category of activities will have minimal adverse "environmental" effects. Where the seprate of cumulative "environmental" effects are more than minimal, the Corps must apply the section 404(b)(1) Guidelines to each discharge individually instead of to the categroy. If the Guidelines were limited to water quality and toxics, there would be no reason to consider "environmental" impacts in deciding whether it would be appropriate to forego section 404(b)(1) scrutiny of individual projects.

Issue Number 3: How should the requirements for testing be structured?

Approach Used in the Guidelines: The proposed regulation includes procedures for physical, chemical, and biological testing of dredged or fill material proposed to be discharged into the waters of the United States. These proposed procedures are essentially identical to the testing procedures of the interim final guidelines of September 5, 1975 (40 CFR 230, Section 4–1). Within 30 days of the date of this proposal, detailed information will be provided in the **Federal Register** concerning possible approaches to revision of section 404(b)(1) testing procedures soliciting broad public comment on this aspect of the section 404(b)(1) evaluation process.

Reason for Selecting this Approach: Since publication of the interim final guidelines, experience in their implementation and the results of ongoing research have indicated the need to revise the testing procedures to improve both their operational efficiency and technical quality. Several approaches to modification of the current procedures have been considered and alternative approaches to the testing issue have been developed in considerable detail. These are still being prepared for public review. In order for this important issue to receive the most thorough focus and broadest comment, the testing issue will be prepared as a separate item for public comment within 30 days. Following a consideration of comments from this special publication, the modified testing approach will be proposed for inclusion in the Guidelines.

Issue Number 4. What is the relationship between sections 404 and 311?

Approach Used in the Guidelines: Section 311 of the Clean Water Act imposes reporting requirements, cleanup liabilities, and civil penalties in the event of spills of oil or hazardous substances in amounts which may be harmful. Both the identity of the hazardous substances and the amounts which may be harmful are specified in regulations. To date, 299 substances have been designated as hazardous. The section 404(b)(1) Guidelines have been drafted with these requirements in mind. However, because of the difficulty in measuring the exact amount of particular hazardous substances in dredged or fill material and because the amount which may actually be harmful may be vastly different from a spill of concentrated material when the substance is contained in dredged or fill material, we did not simply incorporate quantities in the section 311 regulations. The approach described below is taken to ensure the protection of the waters.

Reasons for Selecting This Approach: Section 230.10(c) provides that no discharge of dredged or fill material will be permitted if it will have an unacceptable adverse impact on the waters of the United States. Subsequent sections ensure that the impact of any discharge will be fully understood before any decision is made to permit the discharge. For example, under § 230.23(f), the permitting authority is required to make a determination of the "potential for acute or chronic effects on aquatic and wetland organisms, including bioaccumulation, as a result of the biological availability of pollutants in the solid, liquid, or suspended particulate phases."

Before making that determination, the permitting authority, pursuant to § 230.22, must consider the likelihood that the dredged or fill material in question is a carrier of pollutants. If this inquiry indicates that pollutants, such as 311 hazardous substances, are likely to be present, then the permitting authority is required to undertake specified tests as provided in § 230.23 to determine the effect of the proposed discharge at the proposed disposal site. The Guidelines state explicitly that one circumstance to be considered in assessing the need for testing is any history of spills of petroleum products or substances designated as hazardous under section 311. Thus, under the section 404(b)(1) Guidelines, a discharge of dredged or fill material containing more than the designated quantity of hazardous substances could be permitted *only* where there is prevailing evidence that the discharge will in fact not be harmful.

Public Participation

On September 7, 1978, the Office of Water Planning and Standards distributed for limited review a draft of the section 404(b)(1) Guidelines. More than 300 copies were distributed to Federal, State and local agencies, environmental/conservation groups, trade associations, civic groups and other interested parties and individuals. Thirty-two responses were received on the Guidelines and the following synthesis is representative of the comments received.

1. *Comment:* Several commenters stated that the Guidelines do not distinguish between regulatory and background materials, and recommended that the Guidelines should be divided into two sections, namely background on the effects of discharges on aquatic biota, wetlands, water quality, etc., and the specific regulatory procedures to evaluate those effects.

Answer: The Guidelines generally are physically divided into a procedural assessment part and an ecosystems guidance part, but it is not possible conceptually to divorce one from the other, since the two sections must be used in conjunction to properly evaluate a section 404 permit. To separate the two parts in a manner which subordinates the ecosystems guidance part would imply that the latter is not important or meaningful in the section 404 (b)(1) evaluation. This would be contrary to the purpose for which the ecosystems guidance is provided, namely to ensure that an adequately rigorous evaluation is carried out. This guidance also helps to ensure consistency of the evaluation process by providing a structured format for consideration of each of the special systems treated.

2. *Comment:* One commenter stated that activities authorized under General Permits should not require individual review and approval by regulatory agencies.

Answer: This comment may reflect confusion over the operational effect of the Guidelines. The Guidelines do not require review under the Guidelines when an individual proposes to undertake an activity covered by a General Permit. However, the establishment of a General Permit itself must be based on an assessment under the Guidelines of the activities to be covered.

3. *Comment:* Several commenters suggested that the Guidelines failed to adequately protect wetlands, and that EPA should do more to prevent the destruction of wetlands in the U.S.

Answer: The section 404 program in general and the Guidelines in particular are designed specifically to control the discharge of dredged or fill material into waters of the U.S., including wetlands. In this sense, section 404 and the Guidelines do not constitute a full-scale "wetlands protection law." However, the Guidelines do recognize wetlands as a particularly important component of the waters of the United States. This revision is designed to maintain that emphasis, but also to emphasize other aquatic areas that have values deserving special consideration.

4. *Comment:* One commenter strongly objected to the presumption that toxic pollutants are present in dredged material unless demonstrated otherwise by detailed testing procedures of the Guidelines.

Answer: Testing procedures for toxic substances have been incorporated into the Guidelines to ensure a healthy human environment and to prevent damage to the aquatic ecosystem and the organisms which occupy it. However, this testing is not required for every discharge. Indeed, it will be the exception, not the rule. The Guidelines have been structured in such a way as to provide for the elimination from chemical testing for those discharges where the probability of contamination is reasonably believed to be low. This "general evaluation" of § 230.22 is based upon such factors as proximity of the extraction site to known sources of pollution, potential routes of pollutant entry to the extraction site, and similarity of the material to be discharged to that comprising the substrate at the discharge site.

5. *Comment:* The "water dependency test" of § 230.10(e) is too weak as currently drafted. Although the requirement exists that the "* * * activity associated with the fill must have direct access or proximity to, or be located in, the water resource in question to fulfill its basic purpose * * * *", it provides the applicant an easy escape if * * * "other site or construction alternatives are not practicable." Such a wording provides no regulatory controls beyond those already embodied in § 230.10(a)–(d).

Answer: EPA essentially agrees that the above-quoted draft language provided little specific regulatory authority except to highlight the presumption that fills into wetlands and other special areas are less likely to be found "acceptable". Accordingly, we have revised § 230.10(e) to clearly establish upon applicants a requirement to demonstrate a need for the basic purpose of proposed fill activities in wetlands or other special aquatic areas. This test is in addition to other evaluation requirements (e.g. alternatives, mitigation) of the Guidelines. The effect of this change is to complement and strengthen the overall precept of the Guidelines that adverse impacts upon valuable wetland areas should be minimized while avoiding the imposition of an unduly stringent generic restriction against all activities (e.g., primary residence housing in large geographical areas dominated by wetlands) involving filling within such areas.

Regulatory Analysis

Since these proposed Guidelines serve principally to revise the existing interim final Guidelines and since the operating regulations for the 404 Program are the Corps regulations, the basic costs and impacts of the Federal dredge and fill regulatory program derive from regulations already promulgated and in effect. However, it may be anticipated that some *incremental* costs and impacts may derive from these proposed Guidelines since their application will result in some changes in the manner in which proposed discharges are evaluated and perhaps in the ultimate specification decision. It is difficult or impossible to predict the net direction and magnitude of such incremental costs and impacts, since there may be either increases or decreases depending upon the specific case. On the one hand, these proposed Guidelines may require more costly documentation and/or lead to more permit denials or restrictive conditions. On the other hand, however, the more clearly drawn general evaluation procedures (which will excuse most small discharges from chemical testing) may reduce permit-processing costs and lead to fewer denials on the basis of purely speculative fears of potentially large environmental impact. In addition, the more carefully designed evaluation process should reduce the chance of "mistakes" requiring costly cleanup.

The overall economic effect of these regulations will depend upon such site-specific factors as the size and complexity of the project, the degree and nature of public interest, the general state of environmental quality, and the operating mode of the local regulatory authority. Only after several years of experience in operating the permit program under these Guidelines can we attempt to meaningfully assess the incremental difference. In conclusion, we have no reason to believe at present that the proposed Guidelines are significant regulations within the meaning of Executive Order 12044, and thus no Regulatory Analysis is required.

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230.65 Habitat development and restoration of water bodies.

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Subpart A—General

§ 230.1 Purpose and policy.

(a) The purpose of these Guidelines is to restore and maintain the chemical, physical, and biological integrity of the waters of the U.S. through the control of discharges of dredged and fill material.

(b) Congress has expressed a number of policies in the Clean Water Act. These Guidelines are intended to be consistent with and to implement those policies. While the guidelines have been written to stand by themselves, the user of the Guidelines is encouraged to keep the policies expressed in the Clean Water Act in mind to ensure the reasonable application of the Guidelines. The attention of the user is particularly directed to the policies expressed in the following sections of the Act: Section 101 (declaration of goals and policy), section 208 (area-wide management), section 301 (effluent limitations,), section 303 (water quality standards), section 307(a) (toxics), section 311 (hazardous substances), section 401 (certification), section 402 (National Pollution Discharge Elimination System), section 403 (ocean discharge criteria), section 404 (permits for dredged and fill material), and the definitions contained in section 502.

(c) Fundamental to the use of these Guidelines is the precept that dredged or fill material should not be discharged into the aquatic ecosystem, including wetlands, unless it can be demonstrated that such a discharge is necessary and will not have an unacceptable adverse impact either individually or in combination with known and/or probable impacts of other activities affecting the ecosystems of concern (See § 230.72). This precept places the burden of proof on the discharger to demonstrate that a proposed discharge should be permitted.

(d) From a national perspective, the degradation or destruction of aquatic resources by filling operations in wetlands is considered to be among the most severe environmental impacts covered by these guidelines. The guiding principle should be that destruction of highly productive wetlands may represent and irreversible loss of a valuable aquatic resource.

§ 230.2 Applicability.

(a) The Guidelines have been developed by the Administrator of the Environmental Protection Agency in conjunction with the Secretary of the Army acting through the Chief of Engineers under section 404(b)(1) of the Clean Water Act (33 U.S.C. 1344). The Guidelines are applicable to the specification of disposal sites for discharges of dredged or fill material into waters of the United States, and include:

(1) The regulatory program of the U.S. Army Corps of Engineers under sections 404 (a) and (e) of the Act (see 33 CFR 320, 323, 325);

(2) Permit programs of States approved by the Administrator of the Environmental Protection Agency in accordance with sections 404 (g) and (h) of the Act (see 40 CFR 122, 123 and 124);

(3) The civil works program of the U.S. Army Corps of Engineers to which the permit procedures of the regulatory program in (1) do not apply (see 33 CFR 209.145 and section 150 of Pub. L. 94–587, Water Resources Development Act of 1976);

(4) Activities controlled by best management practices implemented by approved Statewide dredged or fill material regulatory programs under section 208(b)(4) (B) and (C) of the Act (see 40 CFR 35.1560);

(5) The planning and evaluation of those Federal construction projects specifically authorized by Congress which meet criteria specified in section 404(r) of the Act.

(b) These Guidelines will be applied in the review of proposed discharges of dredged or fill material into navigable waters which lie inside the baseline from which the territorial sea is measured and the discharge of *fill* material into the territorial sea pursuant to the procedures specified in 33 CFR 320 and 33 CFR 209.145. The discharge of *dredged* material into the territorial sea is governed by the Marine Protection, Research, and Sanctuaries Act of 1972, Pub. L. 92–532, and regulations and criteria issued pursuant thereto (40 CFR 227, "Ocean Dumping Final Regulations and Criteria", and the International Convention for Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention) and to which the United States is one of the contracting parties).

(c) Guidance interpreting these Guidelines may be prepared jointly by EPA and the Corps at the National or regional level from time to time. No modifications to the basic application, meaning, or intent of these Guidelines will be made without rulemaking by the Administrator under the Administrative Procedure Act. (5 U.S.C. 551 *et seq.*)

§ 230.3 Definitions.

For purposes of this Part, the following terms shall have the meanings indicated:

(a) The term "Act" means the Clean Water Act (also known as the Federal Water Pollution Control Act–FWPCA) Pub. L. 92–500, as amended by Pub. L. 95–217, 33 U.S.C. 1251, et seq.

(b) The term "disposal site" means a unit of the waters of the U.S. enclosed within specific boundaries consisting of a water surface area (when present), a volume of water (when present), and a substrate area. In the case of wetlands on which water is not present at the time at which the disposal is contemplated, the disposal site consists of the wetland surface area.

(c) The term "discharge point" means the point within the disposal site at which the dredged or fill material is released.

(d) The term "dilution and dispersion zone" means the volume of water where discharged material and water mix.

Comment: The term "mixing zone" has been used in a number of different ways during the implementation of the Act and other Acts and in discussions concerning Section 404. To avoid confusion, the term "dilution and dispersion zone" is used in these Guidelines. This term refers to the purely physical and chemical processes of mixing the dissolved and suspended particulate components of discharged material with receiving water. The boundary of this zone is the point at which dissolved material and suspended particulates have been sufficiently diluted or dispersed so as to exhibit physical and chemical characteristics substantially the same as those of the receiving water. Therefore, this term differs from the concept of "mixing zone" which has been used elsewhere to mean the volume of the water mass in which discharged material is *allowed* to exceed acceptable levels (such as appropriate water quality standards). In these guidelines, the water mass in which discharged material is allowed to exceed acceptable levels while initial dilution and dispersion take place is described by use of the term "disposal site."

(e) The term "desposition zone" means the space on the substrate where discharged material accumulates.

(f) The term "constituents" means the chemical or radiological substances, solids, and organisms associated with dredged or fill material.

(g) The term "pollution" means the man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of the water.

(h) The term "toxic pollutant" means any substance on the list of toxic pollutants promulgated on January 31, 1978 (43 FR 4109) or on any subsequent list promulgated pursuant to section 307(a)(1) of the Act.

(i) The term "carrier of contaminant" means dredged or fill material that is contaminated by chemical, biological, or radiological substances in a form that can be incorporated into or ingested by and harm or otherwise contaminate aquatic organisms, consumers of aquatic organisms, or users of the aquatic environment.

(j) The term "solid phase" means the portion of dredged or fill material that, when discharged into water, retains its solid form and settles on the substrate in solid form.

(k) The term "liquid phase" means the portion of dredged or fill material that, when discharged into water, is dissolved and remains in solution as it passes through the water column.

(l) The term "suspended particulate phase" means the portion of dredged or fill material that, when discharged into water, disperses in the water column as suspended particles, usually the size of silt (63 microns or one-sixteenth of a millimeter) or smaller.

(m) The term "acute toxicity" means a short-term effect of a toxic pollutant that typically results in death of the exposed organisms. Acute toxicity can be expressed as the lethal concentration for a stated percentage of organisms tested, or the reciprocal, which is the tolerance limit of a percentage of surviving organisms. (Acute toxicity for aquatic organisms generally has been expressed for 24- to 96-hour exposures).

(n) The term "chronic toxicity" means the effect of toxic pollutants upon organisms through an extended time period. Chronic toxicity may be expressed in terms of an observation period equal to the lifetime of an organism or to the time span of more than one generation. Some chronic effects may be reversible, but most are not. Chronic effects often occur in the species population rather than in the individual.

(o) The terms "aquatic environment" and "aquatic ecosystem, including wetlands" mean waters of the U.S. that serve as habitat for interrelated and interacting communities and populations of plants and animals.

(p) The term "practicable" means feasible after taking into consideration economics, technology, and logistical factors.

(q) The term "pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

Comment: The legislative history of the Act reflects that "radioactive materials" as included within the definition of "pollutant" in section 502 of the Act means only radioactive materials which are not encompassed in the definition of source, byproduct, or special nuclear materials as defined by the Atomic Energy Act of 1954, as amended, and regulated under the Atomic Energy Act. Examples of radioactive materials not covered by the Atomic Energy Act and, therefore, included within the term "pollutant", are radium and accelerator produced isotopes. See *Train* v. *Colorado Public Interest Research Group, Inc.*, 426 U.S. 1 (1976).

(r) The term "wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(s) "Navigable waters" is defined in section 502(7) of the Act to mean "waters of the United States, including the territorial seas." This term includes but is not limited to:

(1) All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(2) Interstate waters, including wetlands;

(3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, and wetlands; the use, degradation or destruction of which could affect interstate commerce including any such waters:

(i) Which are or could be used by interstate travelers for recreational or other purposes; and

(ii) From which fish or shellfish are or could be taken and sold in interstate commerce; and

(iii) Which are used or could be used for industrial purposes by industries in interstate commerce.

(4) All impoundments of waters of the United States otherwise defined as navigable waters under this paragraph.

(5) Tributaries of waters identified in paragraphs (1)–(4) of this section.

(6) Wetlands adjacent to waters identified in paragraphs (1)–(5) of this section, provided that treatment ponds or lagoons designed to meet the requirements of the Clean Water Act (other than cooling ponds meeting the criteria of this paragraph) are not waters of the United States.

Comment: For purposes of clarity, the term "waters of the United States" is used throughout the regulations rather than "navigable waters." In defining the jurisdiction of the FWCA as the "waters of the United States", Congress, as demonstrated in the legislative history to the Act, specified that the term "be given the broadest, consitutional interpretation unencumbered by Agency determinations which would have been made or may be made for administive purposes." While the words of this definition and those of the Corps of Engineers in 33 CFR 323.2(a) for "waters of the United States" differ to comply with intra-agency requirements both definitions describe the same waters.

(t) The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the United States by man-made dikes or barriers, natural river berms beach dunes and the like are "adjacent wetlands."

(u) The term "impoundment" means a standing body of open water created by artificially blocking or restricting the flow of a river, stream, or tidal area.

(v) The term "dredged material" means material that is excavated or dredged from waters of the United States.

(w) The term "discharge of dredged material" means any addition of dredged material into the waters of the United States. The term includes, without limitation, the addition of dredged material into waters of the United States and the runoff or overflow from a contained land or water disposal area. Discharges of pollutants into waters of the United States resulting from the onshore subsequent processing of dredged material that is extracted for any commerical use (other than fill) are not included within this term and are subject to section 402 of the Clean Water Act even though the extraction and deposit of such material may

require a permit from the Corps of Engineers.

(x) The term "fill material" means any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a waterbody. The term does not include any pollutant discharged into the water primarily to dispose of waste, as that activity is regulated under section 402 of the Clean Water Act Amendments of 1977.

(y) The term "discharge of fill material" means the addition of fill material into waters of the United States. The term generally includes, without limitation, the following activities: Placement of fill that is necessary to the construction of any structure in a water of the United States; the building of any structure or impoundment requiring rock, sand, dirt, or other material for its construction; site-development fills for recreational, industrial, commercial, residential, and other uses; causeways or road fills; dams and dikes; artificial islands; property protection and/or reclamation devices such as rip-rap, groins, seawalls, breakwaters, and revetments; beach nourishment; levees; fill for structures such as sewage treatment facilities; intake and outfall pipes associated with power plants and subaqueous utility lines; and artificial reefs.

§ 230.4 Organization, use, adaptability of the Guidelines.

(a) *Organization.* The Guidelines are divided into nine subparts. Subpart A presents those provisions of general applicability, such as purpose and definitions. Subpart B establishes the four general conditions which must be satisfied in order to make a finding that a proposed discharge of dredged or fill material complies with the Guidelines. Subpart C sets forth factual determinations which are to be considered in determining whether or not a proposed discharge satisfies the Subpart B conditions of compliance. In addition, Subpart C prescribes a number of physical, chemical, and biological evaluations and testing procedures to be used in reaching the required factual determinations. Subpart D describes the physical and chemical components of a site and provides guidance as to how proposed discharges of dredged or fill material may affect these components. Subparts E–G detail the special characteristics of particular aquatic and wetland ecosystems in terms of their values, the possible loss of these values due to discharges of dredged or fill material, and the means to prevent these losses from occurring.

Comment: The extent of use of Subparts E–G depends upon whether the resources discussed in these categories are present at the discharge site. For example, if it is determined that no sanctuaries or refuges are sufficiently close to the discharge site to be affected by the discharge, than no further consideration of § 230.4 is necessary. It is unlikely that a large number of the categories in Subparts E–G will be used in any given discharge consideration.

Subpart H recognizes that in certain circumstances, the discharge of dredged or fill material can benefit the environment. Subpart I treats General permits and preselection of disposal sites.

(b) *Use.* In evaluating whether a particular discharge site may be specified, the permitting authority should use these Guidelines in the following sequence (see also Flow Chart I):

(1) In order to obtain an overview of the principal regulatory provisions of the Guidelines, review the *conditions of compliance* of § 230.10(b) and (c), the *measures to minimize adverse impact*—or "permit conditions"—of § 230.10(d) and the required *factual determinations* of § 230.20.

(2) Examine *practical alternatives* to discharge into waters of the U.S.—that is, *not* discharging into the waters—or discharging into alternative aquatic site with potentially less damaging consequences (see § 230.10(a)).

(3) Evaluate the material to be discharged to determine the possibility of *chemical (toxic) contamination or physical incompatibility of the material* to be discharged (230.22 and 230.21(b)).

(4) If chemical contamination is reasonably believed to be probable, conduct the appropriate *tests* according to the section on Evaluation and Testing (§ 230.23).

(5) *Identify a candidate disposal site* based upon the criteria and evaluations of § 230.23(f).

(6) *Evaluate the candidate disposal* site with respect to the various *physical and chemical components* which characterize the non-living environment of the site—the substrate and the water including its dynamic characteristics (Subpart D).

(7) At the candidate disposal site, *identify and evaluate any special or critical characteristics* of the site related to its living communities or human uses (Subparts E, F, and G).

(8) Make appropriate and practical changes to the project plan to *minimize the environmental impact* of the discharge, based upon both the specialized Guidelines to Minimize Impacts of each paragraph (c) in Subparts D through G and the general measures to minimize impact in § 230.10(d).

(9) *Make and document Special Determinations* of appropriate paragraphs (d) in Subparts E through G.

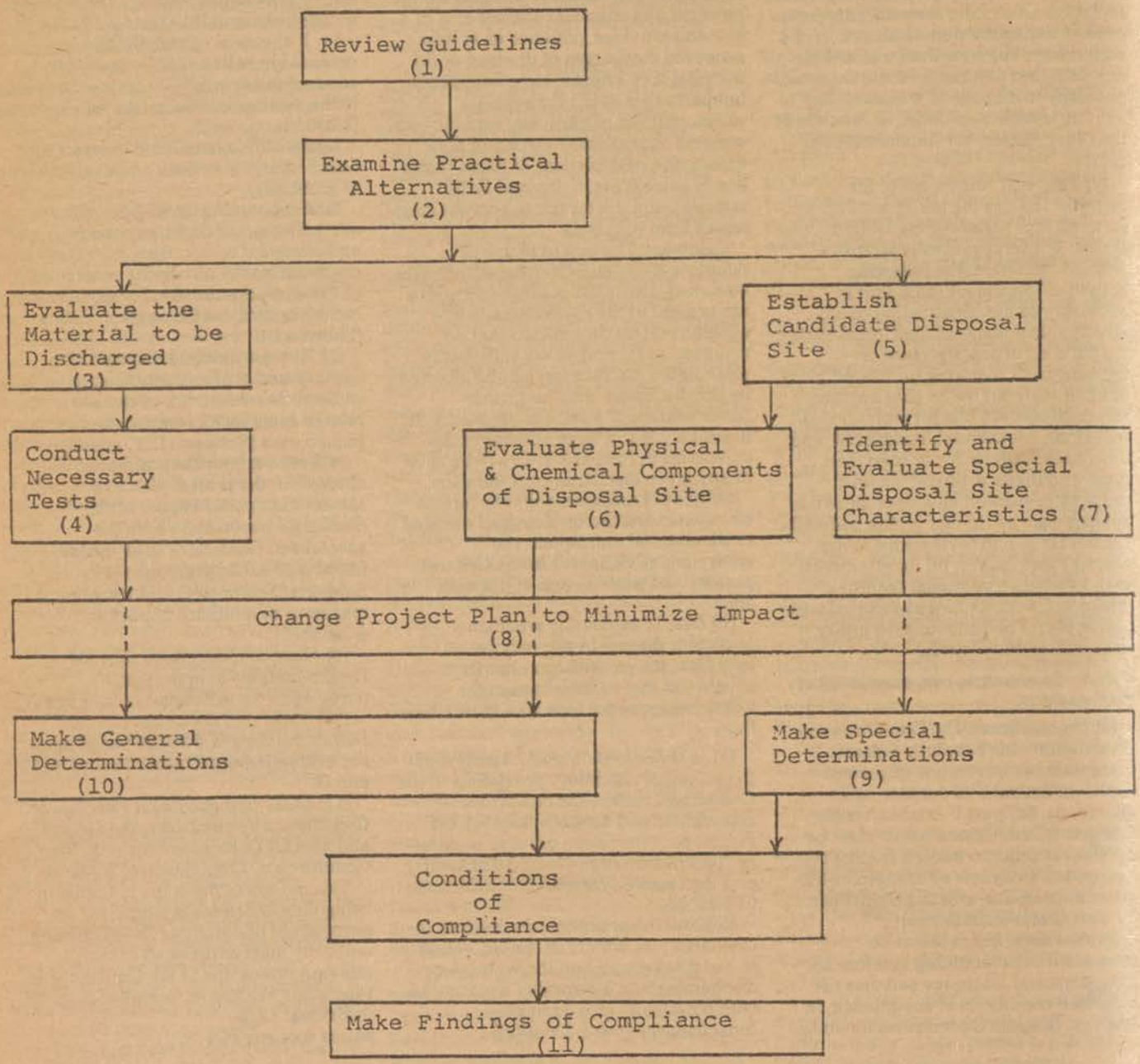
(10) *Make and document General Determinations* in § 230.20 based upon the evaluations and tests of Subparts C and D.

(11) *Make and document Findings of Compliance* by comparing the General and Special Determinations with the Conditions of Compliance of § 230.10.

This outline of the steps to follow in using the Guidelines is simplified for purposes of illustration. The permitting authority must address all of the relevant provisions of the Guidelines in reaching a Finding of Compliance in an individual case.

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FLOW CHART I



BILLING CODE 6560-01-C

(c) *Adaptability to particular types of activities.* (1) The manner in which these Guidelines are used depends on the nature of the extraction site, the material to be discharged, and the candidate disposal site, including important environmental components. Documentation to demonstrate knowledge about the extraction site, materials to be extracted, and candidate disposal site is an essential component of guideline application. These Guidelines are broad enough to allow appropriate evaluation and documentation for a variety of activities, ranging from those with the potential for large, complex impacts on the aquatic environment and wetlands, to those for which the impact is likely to be innocuous. However, it is unlikely that the Guidelines will apply in their entirety to any one activity, no matter how complex. It is anticipated that substantial numbers of permit applications will be for minor routine activities that have little, if any, potential for noticeable environmental impacts. Although there may be exceptional cases, and while in certain situations the cumulative impact of a number of such discharges could in fact be significant, it generally is not intended or expected that extensive testing, evaluation or analysis will be needed to make findings of compliance in such routine cases.

The Guidelines user, including the agency or agencies responsible for implementing the Guidelines, must recognize the different levels of effort that should be associated with varying degrees of impact and require or prepare commensurate documentation. The level of documentation should reflect the significance and complexity of the discharge activity.

An essential part of the evaluation process involves making initial and intermediate determinations as to the relevance of any factor or portion(s) of the Guidelines and conducting further evaluation only as needed. However, where portions of the Guidelines review procedure are to be abbreviated, (i.e., "short form" evaluation) there still must be sufficient information including consideration of both individual and cumulative impacts (See § 230.72), to support the decision of whether to specify the site for disposal of dredged or fill material and to support the decision to curtail or abbreviate the evaluation process. The presumption against the discharge in 230.1 applies to this decision making.

Comment: Activities may be stratified with respect to their probable impact on the aquatic ecosystem, including wetlands. Examples of criteria for stratifying such impacts are:

(1) The history of extraction and use of the proposed disposal site; for instance, where discharges from maintenance dredging of a navigation channel have been authorized under Section 404 over a period of years, it may only be necessary to document that the impacts (including cumulative impacts) of future discharges would not differ from past impacts.

(2) The availability of approved areawide plans such as Coastal Zone Management plans and 208 plans which include treatment of disposal sites for the discharge of dredged or fill material. Supplementary documentation may be required for specific activity involving discharges to complement the broad documentation already contained in the plan.

(3) Availability of relevant information in the files of Federal, State, or local authorities. Supplementary documentation may be required to ensure that all applicable aspects of these Guidelines are considered in arriving at the Section 404 permit decision.

(4) Size and complexity of project.

(5) Likelihood of secondary and cumulative impacts.

(6) Similarity to previously reviewed projects.

In the case of activities covered by General Permits, the documentation required by the Guidelines is for General Permit promulgation and not for activities subject to General Permit control. These Guidelines do not require reporting or formal written communication at the time individual activities are initiated under a General Permit. However, a particular General Permit may require appropriate reporting.

Subpart B.—Compliance With the Guidelines

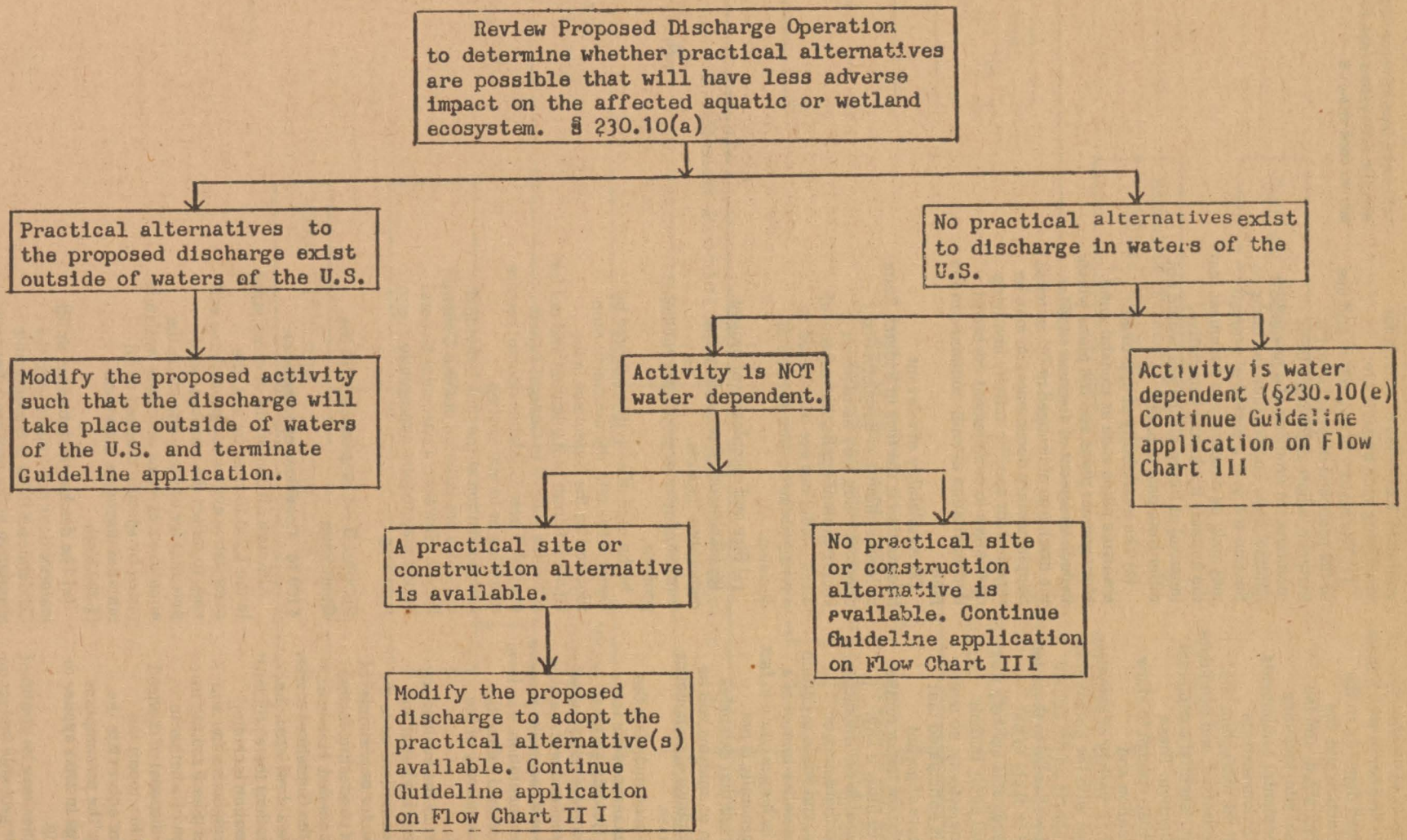
§ 230.10 Conditions of compliance.

Although all conditions of compliance in the § 230.10 must be met, the compliance evaluation procedures will vary to reflect the seriousness of potential for adverse impact on the aquatic ecosystems including wetlands, posed by specific dredged or fill material discharge activities. (§ 230.4(c)).

(a) The discharge of dredged or fill material does not comply with the Guidelines if there is a practicable alternative to the proposed discharge that is environmentally preferable and will have less adverse impact on the aquatic ecosystem (see Flow Chart II).

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Flow Chart II



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(1) For the purpose of making this finding, practicable alternatives include, but are not limited to:

(i) Activities which do not involve a discharge of dredged or fill material into the waters of the United States or ocean waters;

(ii) Discharges of dredged or fill material at other locations in waters of the United States or ocean waters.

Comment: Areas not presently owned by the applicant which could reasonably be obtained, utilized, expanded or managed for project purposes may be considered as practicable alternatives.

(iii) Discharges of other particular volumes and concentrations of pollutants at other specific rates.

(2) In determining whether an alternative is practicable, consideration may be given to economic, technical, and logistical factors.

(3) (i) If all practicable alternatives to a proposed discharge (including the "no action" alternative), have been identified and evaluated through the NEPA process or other planning and evaluation process, further development of the alternatives may not be necessary under this paragraph, provided that the original development of alternatives complies with the requirements identified in this section and elsewhere in the Guidelines. References to such an evaluation shall be made in the written determination of findings, required by § 230.11(b).

(ii) Similarly, if an evaluation of all practicable alternative disposal sites has been conducted in a comprehensive planning process, such as a coastal zone management program or a 208 program, and if this evaluation is comparable in scope to the alternatives evaluation described in this section, it may serve as the basis for that part of the alternatives finding described in paragraph (a) above. However, because such a planning process may not be project-specific, it may be necessary to supplement the alternatives findings in paragraphs (g) (3) (i) and (3)(ii) through consideration of additional detailed information at the time a particular discharge is proposed or when further review of a class or category of activities is undertaken (General Permits or Best Management Practices).

Comment: When Federal planners and permit evaluators and state regulatory agencies conduct alternative studies under other authorities, they should consider the requirements of the Guidelines to ensure the usefulness of such studies for regulatory purposes under section 404.

(b) The discharge of dredged or fill material does not comply with the Guidelines if the discharge will:

(1) After consideration of dilution and dispersion at the disposal site, cause or contribute to ambient water quality which violates any applicable State water quality standard, approved or promulgated by EPA under section 303 of the Act, or any applicable water quality criteria promulgated by EPA;

(2) Violate any applicable toxic effluent standards or prohibitions under section 307 of the Act;

(3) Result in the introduction outside the disposal site of toxic substances in amounts which cause destruction of organisms through acute or chronic toxicity or through physiological disturbance or which will result in potential adverse effects in a consumer organism through bioaccumulation of the substance in the aquatic organism;

(4) Jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of a habitat which is determined by the Secretaries of Interior or Commerce, as appropriate, to be a critical habitat under the Endangered Species Act of 1973 unless an exemption has been granted by the Endangered Species Committee;

Comment: The reference to the Endangered Species Committee is included in recognition of the possibility of exemption from the prohibition of the Endangered Species Act. However, such an exemption is not available where there are other grounds for denying a permit. Therefore, the permitting authority should complete review of the discharge under these Guidelines even where the discharge will not comply with (4).

(5) Disrupt conditions and terms of marine sanctuaries designated by the Secretary of Commerce under Title III of the Marine Protection, Research, and Sanctuaries Act of 1972.

(c) The discharge of dredged or fill material does not comply with these Guidelines if it is determined, after a consideration of § 230.26 where appropriate, that the discharge will have an unacceptable adverse impact on the waters of the United States. The finding of unacceptable adverse impact shall, as a minimum, be based upon appropriate determinations, evaluations, and tests required by Subpart C and any special determinations required by Subparts D through G with special emphasis on the persistence and permanence of such impacts.

(1) It shall be an objective of these Guidelines that the following adverse effects, individually or collectively, be prevented:

(i) Significantly adverse effects of discharge of pollutants on human health or welfare, including but not limited to effects on plankton, fish, shellfish, wildlife, and special areas such as shorelines, beaches, wetlands.

Comment: Fish and wildlife sanctuaries and refuges, parks, national and historical monuments, national seashores, wilderness areas, research sites or similar preserves are examples of other critical areas that should be protected;

(ii) Significantly adverse effects of discharge of pollutants on aquatic life and other wildlife, dependent on aquatic ecosystems, including the transfer, concentration, and dispersal of pollutants or their byproducts through biological, physical, and chemical processes.

(iii) Significantly adverse effects of discharge of pollutants on aquatic ecosystem diversity, productivity, and stability. Such effects may include, but are not limited to, loss of fish and wildlife habitat or loss of the capacity of a wetland to assimilate nutrients or reduce wave energy.

(iv) Significantly adverse effects of discharge of pollutants on aesthetic, recreation, and economic values.

(2) It shall be the additional objective of these Guidelines to prevent the chemical, physical or biological degradation of waters of the U.S. by the discharge of dredged or fill material through management of the number, location, size, and configuration of disposal sites as well as the rate, volume, and concentrations of pollutants in the material discharged. Chemical or physical alteration of a body of water or wetland should be avoided or minimized where possible. Use of waters of the U.S. for discharge of dredged of fill material is presumed to unacceptable unless it can be demonstrated that such a discharge is necessary and will not have an unacceptable adverse impact on the aquatic ecosystem including wetlands, either individually or cumulatively. Where a previously degraded aquatic ecosystem is involved, consideration should be given to the use of dredged or fill material to improve or restore the ecosystem.

Comment: It is the intent of these Guidelines to control and if necessary limit or prohibit discharges of dredged or fill material into the aquatic environment including wetlands. It is of primary importance that movement of material from one place to another not degrade the chemical and physical characteristics of the substrate. Chemical degradation is not likely to occur if the concentration of available chemical components of the material to be discharged is equal to or less than those of the same components at the

disposal site. Degradation can occur as a result of changing characteristics of the aquatic ecosystem, such as altering water level or circulation patterns and littering the environment with piles of discharged material. Restoration of degraded aquatic areas by discharge of dredged or fill material may provide not only disposal sites but also environmental benefits. However, improvements (such as creation of new wetlands) of undisturbed natural areas should be embarked upon only after extensive and careful evaluation of impacts and benefits.

(d) The discharge of dredged or fill material does not comply with these Guidelines if the manner of discharge fails to sufficiently minimize where practicable any potential adverse impact to the aquatic ecosystem including wetlands.

Comment: Discharge technology should be adapted to the needs of each site. In determining whether the discharge operation sufficiently minimizes adverse environmental impacts, the applicant should consider for example:

(1) The type of equipment or machinery, including protective devices, used in activities ancillary to the discharge of dredged or fill material;

(2) The operation and maintenance of such equipment or machinery including adequate operation, staffing, and training;

(3) The method of transportation of the material for discharge;

(4) Limitations on the solid, liquid, and gaseous components of material to be discharged;

(5) The addition of treatment substances such as oxygen to material to be discharged;

(6) Limitations on the amount of material to be discharged per unit of time or volume of receiving water;

(7) The timing of the discharge to minimize impact (e.g., to avoid spawing or migration seasons and periods of undesirable wave, wind, and tidal action);

(8) Proper maintenance and containment of material discharged to prevent erosion, leaching, slumping and other nonpoint sources of pollution;

(9) The method of dispersion of the material;

(10) The location of actual release of material with respect to the substrate and other factors;

(11) The location of the disposal outside of the vicinity of a public water supply intake;

(12) Delay in extraction or exposure of dredged material to different levels of oxygen, pH, temperature, or other particular conditions that will reduce the potency of non-persistent pollutants;

(13) Other measures identified in Subpart D through G of these Guidelines.

(e) In the case of a discharge of fill material into special aquatic or wetland areas (Subpart E), where the activity associated with the fill does not require direct access or proximity to or siting within, the water resource in question to fulfill its basic purpose, the discharge may be allowed only if, in addition to the other requirements of these Guidelines (alternatives, impacts, mitigation), there is a showing that the activity associated with the fill is necessary.

Comment: This subsection requires that an additional test be met by a "non-water dependent" activity before it can be located in a wetland or special aquatic area. This test is intended to prevent the destruction or adverse alteration of wetlands and special aquatic areas by non-water dependent activities except in cases where the applicant can show that the basic purpose of the activity is one for which the local community has a demonstrable need. In assessing the basic purpose of an activity, one must look at the basic service or product it provides. For example, the basic purpose of a housing development located in a wetland site to provide homesite waterfront dockage is still housing. Thus, to meet this test, the applicant would have to show a need for housing, *per se*, not merely a demand for *waterfront* housing.

§ 230.11 Findings of compliance.

(a) On the basis of these Guidelines the proposed disposal sites for the discharge of dredged or fill material must be:

(1) Specified as complying with these Guidelines; or

(2) Specified as complying with these Guidelines with the inclusion of appropriate discharge conditions to minimize pollution or adverse impacts to the affected aquatic ecosystems including wetlands; or

(3) Specified as failing to comply with the requirements of these Guidelines where: (i) There are practicable alternatives to the proposed discharge that will have a less adverse impact on the aquatic ecosystem (§ 230.10(a)) and are environmentally preferable; or (ii) the proposed discharge will result in unacceptable pollution to the aquatic ecosystem (§ 230.10 (b) and (c)); or (iii) the proposed discharge does not include all practicable measures to minimize potential harm to the aquatic ecosystem (§ 230.10(d)); or (iv) there does not exist sufficient information to make a reasonable judgment as to whether the proposed discharge will comply with these Guidelines.

(b) Findings under this section shall be set forth in writing by the District Engineer or, where appropriate, the Director (i.e., the chief administrative officer of a State agency administering a permit program approved by EPA under § 404(g) and § 404(h)) or his delegated representative, for each proposed discharge. These findings shall include the factual determinations required by § 230.20, findings under § 230.10, and a brief explanation of any adaptation of these Guidelines to the activity under consideration. In the case of a General Permit, such findings shall be prepared for that permit rather than for each subsequent discharge under the authority of that permit.

Subpart C—General Physical, Chemical, and Biological Evaluations, Tests, and Determinations

§ 230.20 Factual determinations.

Evaluation and testing procedures described in this subpart shall be applied as required to all proposed discharges of dredged or fill material in order to determine their potential short term or long term effect on the physical and chemical components of the aquatic environment, including wetlands, as described in Subpart D. These determinations, as well as any special factual determinations required by Subparts E through G, must be documented, must describe the scope, methods, and results of examinations used to reach them, and must be considered in making all findings of compliance required by § 230.11. Factual determinations required for each proposed discharge include the following:

(a) *Physical substrate determinations.* A determination shall be made of the nature and degree of effect that the proposed discharge will have on the characteristics of the substrate at the proposed disposal site. Consideration shall be given to the similarity in particle size, shape and degree of compaction of the material proposed for discharge and the material constituting the substrate at the disposal site, and any potential changes in substrate elevation and bottom contours (including changes outside of the disposal site which may occur as a result of erosion, slumpage, or other movement of the discharged material). The environmental characteristics and values, their potential loss, and the Guidelines to minimize impact, as detailed in § 230.30, shall additionally be considered in making these

determinations. Potential changes in substrate elevation and bottom contours shall be predicted on the basis of the proposed method, volume, location, and rate of discharge, as well as on the individual and combined effects of current patterns, water circulation, wind and wave action, and other physical factors that may affect the movement of the discharged material.

(b) *Water circulation, fluctuation, and salinity determinations.* A determination shall be made of the nature and degree of effect that the proposed discharge will have on current patterns, water circulation including downstream flows, normal water fluctuation, and salinity. Consideration shall be given to the potential diversion or obstruction of flow, alterations of bottom contours, or other changes in the hydrologic regime. Additional consideration of the environmental characteristics and values, their possible loss, and the Guidelines to minimize impacts, as detailed in § 230.33–230.35, shall be used in making these determinations. Potential effects on the current patterns, water circulation, normal water fluctuation and salinity shall be evaluated on the basis of the proposed method, volume, location, and rate of discharge.

(c) *Suspended particulates determinations.* A determination shall be made of the nature and degree of effect that the proposed discharge will have in terms of potential changes in the kinds and concentrations of suspended particulates in the vicinity. Consideration shall be given to the grain size of the material proposed for discharge, the shape and size of the plume of suspended particulates, and whether or not the potential changes in the kinds and concentrations of suspended particulates (suspended solids) will cause violations of applicable water quality standards. In making this determination, consideration should also be given to the environmental characteristics and values, to their possible loss, and to the Guidelines for minimizing impact in § 230.31 (Suspended Particulates). Consideration shall include the proposed method, volume, location, and rate of discharge, as well as the individual and combined effects of current patterns, water circulation and fluctuations, wind and wave action, and other physical factors on the movement of suspended particulates. Suspended particulate bioassay testing, as described in § 230.23, may be required to determine the impact of increased suspended particulate levels on filter-feeding and other vulnerable aquatic organisms.

(d) *Wetland and other aquatic biota determinations.* A determination shall be made of the nature and degree of effect that the proposed discharge will have (both individually and cumulatively) on the structure, function and habitat of wetland and other aquatic biota. Consideration shall be given to potential changes in substrate characteristics and elevation, water or substrate chemistry, and water currents, circulation, fluctuation, or salinity that would significantly affect the recolonization of the proposed disposal site by indigenous fish, wildlife, and aquatic communities. The environmental characteristics and values, their possible loss, and the Guidelines to minimize impacts, as detailed in §§ 230.30–230.35, and the appropriate section of Subparts D–F shall additionally be considered in making these determinations. Biological tests including inventories, bioassays, and bioaccumulation tests as described in § 230.23 may be required to provide information on both the physical and chemical suitability of the discharge material to support the communities or populations of organisms existing at the proposed disposal site.

(e) *Toxic pollutant determinations.* A determination shall be made of the degree to which the material proposed for discharge will introduce, relocate, or increase the amount of toxic pollutants listed under section 307(a)(1) of the Act. This determination shall consider the solid, liquid and/or suspended particulate phase of the material discharged, and the aquatic environment at the proposed disposal site. Such pollutants are presumed to be present unless demonstrated otherwise by the procedure outlined in § 230.22, or the tests outlined in § 230.23.

Comment: Under section 307(a)(1) of the Act, the Administrator must establish a list of toxic pollutants. Effluent guidelines will be developed for industries discharging listed substances and effluent standards will be established as appropriate. In addition, under section 307(a)(5) of the Act, the Administrator, after consultation with the Secretary of the Army, may designate dredged material as a category subject to effluent standards or prohibitions established under § 307(a)(2). Notwithstanding the current absence of effluent limitations for toxic substances in dredged material, substances listed under section 307(a) of the Act are a primary concern in the evaluation of the effects of proposed discharges of dredged or fill material under section 404 of the Act.

(f) *Biological availability determinations.* A determination shall be made of the potential for acute or chronic effects on aquatic organisms, including bioaccumulation, as a result of the biological availability of pollutants in the solid, liquid, or suspended particulate phases. Such effects will be presumed to occur where toxic pollutants listed under section 307(a)(1) of the Act have not been demonstrated to be absent by the procedure outlined in § 230.22 or by the tests outlined in § 230.23.

(g) *Proposed disposal site appearance determinations.* A determination shall be made of the appearance of the proposed disposal site and appropriate parts of the surrounding environment prior to the initiation of a discharge activity. Photographic determinations are preferable to narrative descriptions, provided they are accompanied by pertinent data such as exact location of photographer and direction of exposure, time of year and day and weather conditions affecting film exposure, the kind of camera, lens, etc. used, and the photograph clearly depicts those aspects of the aquatic environment and wetlands that will be impacted or modified by the discharge activity.

Comment: The appearance of the proposed disposal site and its surroundings prior to any discharge activity is relevant to the findings required in §§ 230.10 and 230.11. Sufficiently detailed information concerning the appearance of the disposal site before discharge occurs will aid in predicting the impact of the discharge, assessing the adequacy of measures to minimize impacts, monitoring compliance with the permit, and restoring the site where appropriate.

(h) *Special determinations.* A determination shall be made of whether the material to be discharged will disrupt any special disposal site characteristics, taking into consideration the resource values, possible loss of these resources, and these Guidelines, as well as special determinations described in Subparts E through G of the proposed disposal site.

§ 230.21 Purpose and use of evaluation and testing.

(a) The purpose of the evaluation procedure in § 230.22 and the chemical and biological testing sequence outlined in § 230.23 is to provide information to reach the determinations required by § 230.20. Where the results of prior evaluations, chemical and biological tests, scientific research, and experience can provide information helpful in reaching a determination, these should be used. Such prior results may make

new testing unnecessary. The information used to reach each determination shall be documented, except that where the same information is applicable to more than one determination, it may be documented in one instance and referenced in later determinations.

(b) To reach the determinations related to the potential effects of the discharge on physical characteristics of the disposal site (i.e., determinations on physical substrate characteristics, water circulation, fluctuation, salinity, and suspended particulates), the narrative guidance provided in Subpart D may be applied along with appropriate physical tests and evaluations.

Comment: Such tests may include sieve tests, settleability tests, and compaction tests, dilution and dispersion zone and suspended particulate plume determinations, and site assessments of water flow, circulation, and salinity characteristics.

(c) To reach the determinations involving potential effects of the discharge on the chemical characteristics of the disposal site (i.e., determinations on suspended particulates, aquatic and wetland organisms and vegetation, toxic pollutants, biological availability, and water quality standards), the narrative guidance in Subparts D–F shall be used along with the general evaluation procedure in §230.22, and the chemical and biological testing sequence in § 230.22, and the chemical and biological testing sequence in § 230.23 and prediction of dilution and dispersion in § 230.23(e) to examine the solid, liquid, and suspended particulate phases of the dredged or fill material proposed for discharge.

(d) The general evaluation procedure described in § 230.22 can be used to eliminate the need for further chemical and biological testing to determine the presence or absence of toxic pollutants in proposed discharges of dredged or fill material, where the material can be shown to be sufficiently removed from surces of pollution. Where the results of the evaluation do not provide the necessary information to reach the required determinations in § 230.20(c)–(g), the chemical and biological testing sequence outlined in § 230.23 and prediction of dilution and dispersion in § 230.23(e) for the solid, liquid, and suspended particulate phases shall be followed.

(e) In applying the chemical and biological evaluations and tests required by these Guidelines, the differences between dredged material (including dredged material used as fill) and fill material must be considered.

(f) In addition to the evaluation and chemical and biological testing procedures in Subpart C and the narrative guidance on the physical and chemical components of the aquatic wetland environment in Subpart D, the information provided in Subparts E–G (describing resource values, possible loss of resources, and guidelines to protect special characteristics of the aquatic and wetland environment) must be examined to reach the special determinations required by § 230.20(i).

§ 230.22 General evaluation of dredged or fill material.

(a) If dredged or fill material is evaluated under § 230.22(b) and determined not to be a carrier of contaminants, then the determinations required in § 230.20 can be made without testing under § 230.23.

Comments: Under § 230.20(e), toxic pollutants on the 307(a)(1) list are presumed to be present unless eliminated from consideration by the § 230.22(b) evaluation or further testing under § 230.23. Other contaminants must be tested under § 230.23 if the evaluation under § 230.22(b) or other information suggests that they may be present. The purpose of the tests in § 230.23 is to demonstrate the probable impact of a discharge of the material on the aquatic community, human uses of the environment, and any other aspect of the ecosystem susceptible to degradation.

Adaptation of the evaluation and testing process in these Guidelines by permitting authorities under § 230.4 may lead to presentation of different testing protocols. However, such protocols cannot be used to change the intent or requirements of these Guidelines.

(b) The extraction site shall be examined in order to assess whether it is sufficiently removed from sources of pollution to provide reasonable assurance that the proposed discharge material is not a carrier of contaminants. Factors to be considered in demonstrating reasonable assurance of the absence of such pollution include but are not limited to:

(1) Potential routes of pollution or polluted sediments to the extraction site, based on hydrographic or other maps, aerial photography, or other graphic methods that show watercourses, surface relief, proximity to tidal movement, private and public roads, location of buildings, municipal and industrial areas, and agricultural or forest lands;

(2) Pertinent results from tests previously carried out on the material at the extraction site, or carried out on similar material for other permitted projects in the vicinity (such results may be available as public information in the files of government agencies, universities, and elsewhere). The results of tests carried out on material similar to the material proposed for discharge may be relevant. Materials shall be considered similar if the sources of contamination, the physical configuration of the sites and the sediment composition of the materials are comparable, in light of water circulation and stratification, sediment accumulation and general sediment characteristics. Tests from other sites may be relied on only if no changes have occurred at the extraction sites to render the results irrelevant.

(3) Any potential for significant introduction of pesticides from land runoff;

(4) Any records of spills of petroleum products or substances designated as hazardous under Section 311 of the Clean Water Act (see 40 CFR 116–119);

(5) Information in Federal, State and local records indicating significant introduction of pollutants from industries, including types and amounts of waste materials discharged along the potential routes of contaminants to the extraction site; and

(6) Any possibility of the presence of substantial natural deposits of minerals or other substances which could be released to the aquatic environment or wetlands by man-induced discharge activities.

Comment: Dredged or fill material is most likely to be free from chemical, biological, radiological or other pollutants where it is composed primarily of sand, gravel, or other naturally occurring inert material with particle sizes larger than silt (63 microns or one-sixteenth of a millimeter). Dredged material so composed is generally found in areas of high current or wave energy such as streams with large bed loads or coastal areas with shifting bars and channels. However, when such material is discolored or contains other indications that polluted materials may be present, further inquiry should be made.

(c) Where the discharge site is adjacent to the extraction site and subject to the same sources of pollution, and materials at the two sites are substantially similar, the fact that the material to be discharged technically may be a carrier of pollution is not likely to result in degradation of the substrate at the disposal site upon its discharge. In such circumstances, when dissolved material and suspended particulates can be controlled to prevent carrying pollutants to uncontaminated areas,

testing under § 230.23 may not be required.

(d) Where the § 230.22(b) evaluation leads to the conclusion that there is a high probability that the material proposed for discharge is a carrier of pollutants, testing may not be necessary if constraints are available to reduce conditions to acceptable levels within the disposal site and to prevent contaminants from being transported beyond the boundaries of the disposal site, if such constraints are acceptable to the permitting authority, and if the potential discharger accepts and has the capability to implement such constraints.

Comment: An example of such a constraint might be a properly designed and operated contained disposal site.

(e) The presumption that toxic pollutants on the 307(a)(1) toxics list are present in sediments may be accepted following application of the examination specified in § 230.22(b) without conducting a sediment chemical analysis. However, acceptance of such a presumption does not preclude the requirement to supply information about the probable impact of discharge of sediment so contaminated on receiving aquatic ecosystems, including wetlands.

Comment: If a severely polluted sediment condition is established during this General Evaluation (§ 230.22) which will lead to requirement of bioassays, and a sufficiently large number of chemicals are present to render impractical the identification of all chemical pollutants by testing, chemical testing information reasonably may be obtained from bioassays. Severely polluted sediment conditions can be established during this General Evaluation (§ 230.22) by: previous tests (although the results of such tests may not be adequate for other uses in these Guidelines), the presence of polluting industries and information about their discharge or runoff into waters of the U.S., bioinventories, etc.

(f) The information justifying any decision not to test must be documented in § 230.20 Factual Determinations for use in § 230.11 Findings of Compliance.

§ 230.23 Evaluation and testing.

(a) No single test or approach can be applied in all cases to evaluate the effects of proposed discharges of dredged or fill materials. The chemical changes in water quality may best be simulated by use of an elutriate test. To the extent permitted by the state of the art, expected effects such as toxicity, stimulation, inhibition or bioaccumulation may best be estimated by appropriate bioassays. In determining which tests and/or evaluation procedures are necessary in a given case, the permitting authority shall refer to §230.4(c), Adaptability to Particular Types of Activities. EPA in conjunction with the Corps of Engineers will publish a procedures manual that will cover summary and description of tests, definitions, sample collection and preservation, procedures, calculations, and references. Interim guidance to applicants concerning the applicability of specific approaches or procedures will be furnished by the District Engineer.

(b) *Chemical-biological interactive effects.* Ecological perturbation caused by chemical-biological interactive effects resulting from discharges of dredged or fill material is very difficult to predict. Research performed to date has not clearly demonstrated the extent of chemical-biological interactive effects resulting from contaminants present in the dredged or fill material. The principal concerns of open water discharge of dredged or fill material that contain chemical contaminants are the potential effects on the water column or on benthic communities.

(1) *Evaluation of chemical-biological interactive effects.* Dredged or fill material may be excluded from the evaluation procedures specified in paragraphs (b)(2) and (3) of this section if it is determined on the basis of the evaluation in § 230.22 that the likelihood of contamination by toxic pollutants is acceptably low, unless the District Engineer, after evaluating and considering any comments received from the Regional Administrator, determines that these approaches and procedures are necessary. The Regional Administrator may require, on a case-by-case basis, testing approaches and procedures by stating what additional information is needed through further analyses and how the results of the analysis will be of value in evaluating potential environmental effects.

(2) *Water column effects.* Sediments normally contain constituents that exist in different chemical forms and are found in various concentrations in several locations within the sediment. The potentially bioavailable fraction of a sediment is dissolved in the sediment interstitial water or in a loosely bound form that is present in the sediment. In order to predict the effect on water quality due to release of contaminants from the sediment to the water column, an elutriate test may be used. The elutriate is the supernatant resulting from the vigorous 30-minute shaking of one part bottom sediment from the dredging site with four parts water (vol./vol.) collected from the dredging site followed by one-hour settling time and appropriate centrifugation and a 0.45μ filtration. Major constituents to be analyzed in the elutriate are those deemed critical by the District Engineer, after evaluating and considering any comments received from the Regional Administrator, and considering results of the evaluation in § 230.22. Elutriate concentrations observed should be evaluated with regard to with the same constituents in disposal site water and other data which describe the Volume and rate of the intended discharge, the type of discharge, the hydrodynamic regime at the disposal site, and other available information that aids in the evaluation of impact on water quality (including bioaccumulation tests). The District Engineer may specify bioassays when he determines that such procedures will be of value. In reaching this determination, dilution and dispersion effects subsequent to the discharge at the disposal site will be considered.

(3) Suspended particulate effects. Suspended particulate phase bioassay testing shall be required to make the determination in § 230.20(c), (e) and (f) where such determinations cannot be made based upon the general evaluation in § 230.22 or any other previously run currently valid tests. The suspended particulate bioassay may be necessary to determine the effect of uncontaminated suspended particulates on filter-feeding organisms or other vulnerable aquatic species, as well as to determine the bioavailability of toxics in the suspended particulate phase. Where suspended particulate testing of dredged material is required, (suspended particulate phase procedures do not apply to fill material), a bioassay test shall be conducted.

(4) *Effects on benthos.* Evaluation of the significance of chemical-biological interactive effects on benthic organisms resulting from the discharge of dredged or fill material is extremely complex and demands procedures which are at the forefront of the current state of the art. Although research has shown that benthic species can ingest contaminated sediment particles, it has not been determined to what degree the contaminants are dissociated from the sediment and incorporated into benthic body tissues thereby gaining entry to the food web. The District Engineer may use an appropriate benthic bioassay (including bioaccumulation tests) when such procedures will be of value in assessing ecological effect and in establishing discharge conditions.

(c) *Procedure for comparison of sites.* (1) When an inventory of the total

concentration of chemical constituents deemed critical by the District Engineer would be of value in comparing sediment at the dredging site with sediment at the disposal site, he may require a sediment chemical analysis. Markedly different concentrations of critical constituents between the excavation and disposal sites may aid in making an environmental assessment of the proposed disposal operation. Such analyses should be interpreted in terms of the potential for harm as supported by any pertinent scientific literature or as interpreted in criteria such as the Quality Criteria for Water.

(2) When an analysis of biological community structure will be of value to assess the potential for adverse environmental impact at the proposed disposal site, a comparison of the biological characteristics between the excavation and disposal sites may be required by the District Engineer. Biological indicator species may be useful in evaluating the existing degree of stress at both sites. Sensitive species representing community components colonizing various substrate types within the sites should be identified as possible bioassay organisms if tests for toxicity are required. Community structure studies are expensive and time consuming, and therefore should be performed only when they will be of value in determining discharge conditions. This is particularly applicable to large quantities of dredged material known to contain adverse quantities of toxic materials. Community studies should include benthic organisms such as microbiota and harvestable shellfish and finfish. Abundance, diversity, and distribution should be documented and correlated with substrate type and other appropriate physical and chemical environmental characteristics.

(d) *Size of disposal site.* The specified disposal site shall be confined to the smallest practicable area consistent with the type of dispersion determined to be appropriate by the application of these guidelines. In a few special cases under unique environmental conditions, the discharged material may be intended to be spread naturally in a very thin layer over a large area of the substrate rather than be contained within the disposal site. Where there is adequate justification to show that wide-spread dispersion by natural means will result in no significantly adverse environmental effects the discharge is not subject to the normal constraints on size of disposal site in this paragraph. Although the impact of the particular discharge may constitute a minor change, the cumulative effect of numerous such piecemeal changes often results in a major impairment of the water resources and interferes with the productivity and water quality processes of existing environmental systems. Thus, the particular disposal site will be evaluated with the recognition that it is part of a complete and interrelated ecosystem. The District Engineer may undertake reviews of particular areas in response to new applications, and in consultation with the appropriate Regional Director of the Fish and Wildlife Service, the Regional Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, the Regional Administrator of the Environmental Protection Agency, the State Conservationist of the Soil Conservation Service of the Department of Agriculture, and the head of the appropriate State agencies, including the State Director of an approved Coastal Zone Management Program, to assess the cumulative effect of activities in such areas.

(e) *Fill material testing procedures.* Fill material means any pollutant including dredged materials, used to create fill in the traditional sense of replacing an aquatic or wetland area with dry land or changing the bottom elevation of a water body for any purpose. In order to serve that function, fill material must remain in place and generally be capable of bearing weight. This often requires confinement of fill material, which raises the possibility of percolation through or run-off or displacement of the fill by cataclysmic events of nature.

There is little or no sorting of material in a fill. Fill material originating on land may be inert as is the case of granite blocks used for rip rap, or it may consist of soil which could be clean or be contaminated from nearby pollution sources or by waste discharges. If the evaluation under § 230.22 indicates the need for testing, the procedures below should be followed.

(1) *Water Leachate Test.* Where toxic pollutants have not been eliminated through the procedures in § 230.22, water leachate tests for fill material may be conducted to make the determinations required by section 230.20.

(2) *Biological tests.* Biological tests of fill material proposed for discharge, adapted from those described in § 230.23, may be used to determine the acute or chronic effects of polluted fill material upon aquatic and wetland organisms.

(f) *Mixing zone determination.* The dilution and dispersion zone shall be the smallest practicable zone within each specified disposal site, consistent with the objectives of these guidelines, in which desired concentrations of constituents must be achieved.

The District Engineer and the Regional Administrator shall consider the following factors in determining the acceptability of a proposed dilution and dispersion zone:

(i) Depth of water at the disposal site;

(ii) Current velocity, direction, and variability at the disposal site;

(iii) Degree of turbulence;

(iv) Stratification attributable to causes such as obstructions, salinity or density profiles at the disposal sites;

(v) Discharge vessel speed and direction, if appropriate;

(vi) Rate of discharge;

(vii) Ambient concentration of constituents of interest;

(viii) Dredged material characteristics, particularly concentrations of constitutents, amount of material, types of material (sand, silt, clay, etc.) and settling velocities;

(ix) Number of discharge actions per unit of time;

(x) Other factors of the disposal site that affect the rates and patterns of mixing.

Subpart D—Physical and Chemical Components of the Aquatic Ecosystem, Including Wetlands

§ 230.30 Substrate.

The substrate is the solid phase of the aquatic ecosystem, including wetlands, underlying open and adjacent waters of the U.S. and constituting the surface of wetlands. It consists of organic and inorganic solid materials and includes water and other liquids or gases that fill the spaces between solid particles.

(a) *Environmental characteristics and values.* Natural substrates furnish habitat for aquatic plants and animals. These plants and animals often exhibit a variety of structural and behavioral specializations that adapt them to specific types of substrate environments. Substrates vary with respect to particle size and shape, chemical composition, and degree of compaction. The elevation and contours of substrates, molded in part by activity of overlying water, exert a pronounced underwater damming and directional influence on the manner in which water circulates. The chemical processes carried on in the substrate include the absorption and adsorption of materials introduced into the aquatic ecosystem, the production and exchange of gaseous substances, and decomposition and

cycling of inorganic and organic matter by the action of microbes and chemical processes. New material can accumulate naturally on substrates from the water column in the form of settling suspended particulates.

(b)(1) *Possible loss of environmental characteristics and values.* The discharge of dredged or fill material can result in varying degrees of change in the complex physical, chemical, and biological characteristics of the substrate. These changes can adversely affect the substrate environment and are often reflected throughout the entire aquatic ecosystem. The discharge of sufficient amounts of dredged or fill material to alter substrate elevation or contours can result in water circulation, current pattern, water fluctuation and water temperature changes. Erosion or slumpage of such deposits can adversely affect areas of the substrate outside the perimeters of the disposal site by changing or destroying habitat. Bottom-dwelling organisms at the site might be smothered or forced to migrate as a result of a discharge, but similar forms may recolonize on the discharged material. However, when discharged material is very dissimilar from that of the discharge site, recolonization by similar organisms at the site is unlikely. Adverse changes in the substrate can result from the bulk, composition, location, method, and timing of discharges.

(2) Adverse impacts can be compounded by the presence of contaminants in the dredged or fill material. Such effects may be immediate or long-term, localized or broadly dispersed through the aquatic ecosystem. Generally sediments extracted from heavily industrialized or settled areas can be expected to be contaminated with materials known to be discharged in the waters of such an area. The impact of contaminants contained in dredged and fill material is dependent upon the interaction among a wide range of poorly understood variables that affect their release into the immediate aquatic ecosystem.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), the Guidelines to minimize impacts as described in § 230.10(d), and water dependency in § 230.10(e), specific measures to minimize impacts on the substrate include, but are not limited to:

(1) Confining the discharge to the smallest practicable deposition zone where mounding of material on the substrate at the disposal site will protect the characteristics and values of the surrounding substrate.

(2) Spreading or scattering discharge material where maximizing the size of the deposition zone will minimize the thickness of the layer of material or the substrate and prevent loss of characteristics and values attributable to mounding.

(3) Selecting discharge methods and disposal sites where the potential for erosion, slumping or leaching of materials into the surrounding aquatic ecosystem will be reduced. These methods or sites include, but are not limited to:

(i) Using containment levees, sediment basins, and cover crops to reduce erosion;

(ii) Using lined containment areas to reduce leaching where leaching of chemical constituents from the discharged material is expected to be a problem; and

(iii) Using contained areas and avoiding discharges near steep slopes of channels in unsuitable areas to reduce slumpage.

(4) Selecting a disposal site that has been used previously for dredged material discharge.

(5) Selecting an upland disposal site where available and where determined to be an environmentally satisfactory alternative (See § 230.10(a)).

(6) Selecting a disposal site at which the substrate is composed of material similar to that being discharged such as discharging sand on sand or mud on mud.

(7) Discharging material at a location and by methods which minimize changes in substrate elevation, thereby preventing modification of water mass movement leading to erosion or other adverse impacts.

(8) Considering the use of habitat development or restoration measures, where appropriate.

(9) Discharging at times of the year which will minimize adverse effects on the aquatic ecosystem.

(10) Capping in-place contaminated material with clean material or selectively discharging the most contaminated material first so it can be capped with the remaining material as appropriate.

§ 230.31 Suspended particulates.

Suspended particulates in the aquatic ecosystem, including wetlands, consist of fine-grained mineral particles usually smaller than silt, and organic particles. Suspended particulates may enter water bodies as a result of runoff from land, flooding uplands, flushing wetlands, debris from planktonic organisms and higher vegetation, resuspension of bottom sediments, and man's activities. Particulates may remain suspended in the water column for variable periods of time as a result of such factors as agitation of the water mass, particulate specific gravity, particle shape, and physical and chemical properties of particle surfaces.

(a) *Environmental characteristics and values.* Suspended particulates nourish plants by releasing nutrients in both inorganic and organic form to the water column. Suspended organic particles supply food for detritus feeding organisms. Suspended particulates also absorb and adsorb chemicals including pollutants from the water column, adding such materials to the substrate as they settle to the bottom. Suspended particulates settle and reconstitute the substrate when water currents or velocities decrease. Thus, they are present in the water column in greatest amounts at times of high flow or high water levels, but usually for relatively short periods. Large streams, carrying huge sediment loads like the Mississippi River, contain large amounts of suspended particulates much of the time. Other water bodies, like some springs and creeks in stable watersheds of well-forested mountains, only occasionally bear large amounts of suspended particulates. Organisms inhabiting both extremes exhibit marked specializations which adapt them for the environment in which they are found.

(b) *Possible loss of enviromental characteristics and values.* The discharge of dredged or fill material can result in greatly elevated levels of suspended particulates in the water column. High turbidity reduces light penetration which lowers the rate of photosynthesis and the primary productivity of an aquatic area. Sight-dependent species are impacted through reduced feeding ability, leading to more limited growth and lower resistance to disease. Both the biological and the chemical content of the suspended material will react with the dissolved oxygen in the water, which may result in oxygen depletion. Toxic metals and organics, pathogens and viruses absorbed or adsorbed to fine-grained particulates in the material proposed for discharge may be biologically available to organisms in the water column or upon settling to the substrate. When suspended particulate levels are raised significantly above background levels by discharges, they create turbid plumes which are highly visible and aesthetically displeasing. The adverse impacts caused by such discharges depend upon the relative increase in suspended particulates above the amount occurring naturally, the current patterns, water levels and fluctuations

present when such discharges occur, the volume and rate of the discharge, and the seasonal timing of the discharge.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), the Guidelines to minimize impacts as described in § 230.10(d), and water dependency in § 230.10(e), specific measures to minimize the impacts of suspended particulates include, but are not limited to:

(1) Using silt screens or other appropriate filtration methods to confine suspended particulates to a small area where settling or removal can occur.

(2) Making use of currents and circulation patterns to mix, disperse and dilute the discharge in order to expedite reduction in the level of suspended particulates. Configuration of the pipeline at the discharge site can minimize turbidity levels.

(3) Minimizing water column turbidity by using a submerged diffuser system. The same effect can be accomplished to some extent by submerging pipeline discharges.

(4) Utilizing chemical flocculants to enhance the deposition of suspended particulates in diked disposal areas.

(5) Discharging at times of the year which will minimize adverse effects on the aquatic ecosystem.

(6) Adjusting the volume and rate of discharge to minimize the adverse effects of suspended particulates.

§ 230.32 Water.

Water is the liquid phase of the aquatic ecosystem, including wetlands, in which organic and inorganic constituents are dissolved or suspended. It is contained by the substrate to form a dynamic life-supporting system. Water clarity, nutrient and chemical content, color, odor, taste, dissolved gas levels, pH, and temperature contribute to its life-sustaining capabilities.

(a) *Environmental characteristics and values.* Physical and chemical characteristics of the water vary among water bodies and among strata in a single water mass. Vertical stratification from surface to substrate, and lateral stratification between shorelines or banks are also characteristic of certain water bodies. Aquatic organisms and communities are closely adapted both to certain ranges in the physical and chemical properties of water, and to the stratification patterns of the water body. Environmental values of water include its importance as a life-supporting system for communities of aquatic organisms, such as in a drinking water supply, an agricultural and manufacturing water supply, a transportation medium, a place for recreation, education, aesthetics, and food supply, derived from fish, shellfish, and wildlife.

(b) *Possible loss of characteristics and values.* The discharge of dredged or fill material can change the water chemistry and the physical characteristics of the water body at the disposal site through the introduction of chemical constituents in suspended or dissolved form that do not occur there naturally. Changes in the clarity, color, odor, and taste of water and the toxic or hazardous pollutants contained in it can reduce or eliminate the suitability of water bodies for communities and populations of aquatic organisms, and for human consumption, recreation, aesthetics, and amenities. The introduction of nutrients to the water column as a result of the discharge can create a high biochemical oxygen demand (BOD). The dissolved oxygen concentration is reduced as a result of BOD, affecting the survival of many aquatic organisms. Increases in nutrients can favor one group of organisms to the detriment of other more desirable types, resulting in bad health effects, objectionable tastes and odors, and other nuisances.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), the Guidelines to minimize impacts described in § 230.10(d), and water dependency in § 230.10(e), specific measures to minimize the impacts of suspended particulates include, but are not limited to:

(1) Using upland disposal sites and retaining or treating runoff to remove dissolved pollutants before they reach waters of the U.S. when determined to be necessary to protect the aquatic ecosystem.

(2) Using lined or impervious containment areas in waters of the U.S. to prevent release of the discharged material to the receiving water column.

(3) Using a submerged diffuser system or other subsurface disposal method to minimize release of discharged material to the receiving water column.

(4) Adding treatment substances to the discharged material. For instance, the oxygen loss from the water column associated with biological and chemical oxygen demand can be reduced by addition of oxygen to the discharged material.

§ 230.33 Current patterns and water circulation.

Current patterns and water circulation are the physical movements of water in the aquatic ecosystem, including wetlands. Currents and circulation are in response to celestial, gravitational, atmospheric and geologic forces as modified by basin shape and cover, physical and chemical characteristics of water strata and masses, and energy dissipating factors.

(a) *Environmental characteristics and values.* Current patterns and water circulation act to transport, mix, and dilute dissolved and suspended chemical constituents in the aquatic ecosystem. They transport accumulated detritus and food organisms, dissolved nutrients and gases, eggs, sperm, and progeny of animals, seeds and plant fragments, larvae, and young upon which communities and individual populations of organisms depend. Current patterns and water circulation also furnish directional orientation for migratory species, moderate temperature extemes and otherwise influence temperature, and directly or indirectly affect navigation and recreation in the waters of the U.S.

(b) *Possible loss of environmental characteristics and values.* The discharge of dredged or fill material can modify current patterns and water circulation by obstructing flow, changing the direction or velocity of water flow and circulation, or otherwise reducing the reach of a water body. As a result, adverse changes can occur in location, structure, and dynamics of aquatic communities; shoreline and substrate erosion and deposition; the deposition of suspended particulates; the rate of mixing of dissolved and suspended components of the water body; and water stratification.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), the Guidelines to minimize impacts in § 230.10(d), and water dependency in § 230.10(e), specific measures to minimize impacts on current patterns and water circulation include, but are not limited to:

(1) Distributing discharge material widely and in a thin layer at the disposal site to maintain natural substrate contours and elevation.

(2) Where mounding is an acceptable alternative engineering the shape and orientation of the mound to minimize the surface that constitutes a cross sectional barrier to the current and the vertical portion of the water column occupied by the mound. The manipulation of natural bottom contours should be considered in minimizing the size of the mound.

(3) Ensuring water circulation by use of properly designed culverts, pilings, suspension bridges, etc., for structures; and discontinuous mounds for open water discharge. (See Section 230.46 Riffles and Pools for discussion of channelization).

(4) Selection of the sites of impoundments associated with dams to minimize distortion of unique characteristics of riverine ecosystems caused by the inevitable drastic modification of current patterns and water circulation.

§ 230.34 Normal water fluctuations.

Normal water fluctuations in a natural system consist of daily tidal fluctuations, seasonal fluctuations, and annual fluctuations in water level. Biological and physical components of these systems are attuned to periodic water fluctuations.

(a) *Environmental characteristics and values.* Natural water fluctuations affect the water depth, water quality, and salinity conditions to which plants and animals in an aquatic area are closely adapted. They often play an important role during periods of spawning, juvenile development, nesting and feeding. Water fluctuations provide nutrients and water to aquatic biota and transport detritus and seeds, especially to wetlands flushed by tides. Periodic inundation excludes upland plant invasion and thus perpetuates wetland plant communities, which may help to minimize erosion, retard high water runoff (as from floods and storm surges) and promote accretion of the substrate.

(b) *Possible loss of environmental characteristics and values.* Discharge of dredged or fill material can alter the normal water-level fluctuation pattern of an area resulting in prolonged periods of high or low water, exaggerated extremes of high and low water, or a static, nonfluctuating water level. Depending on the condition created by the disposal activity, such water level modifications can change salinity patterns, increase erosion or sedimentation, aggravate water temperature extremes, and upset the nutrient and dissolved oxygen balance of the aquatic ecosystem. In addition, these modifications can alter or destroy communities and populations of aquatic animals and vegetation, induce replacement by nuisance growth, modify habitat, reduce food supplies, restrict movement of aquatic fauna, destroy spawning areas, and change adjacent or downstream areas.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), the Guidelines to minimize impacts in § 230.10(d), and water dependency in § 230.10(e), specific measures to minimize impacts on current patterns and water circulation include, but are not limited to:

(1) Designing access roads and channel spanning structures using culverts, open channels, and diversions that will pass both the high and low stages of fluctuating water flows and maintain circulation and faunal movement.

(2) Designing the discharge of dredged or fill material to minimize or prevent the creation of standing bodies of water in areas of fluctuating water levels, or the drainage of areas previously subject to such fluctuations. (See § 230.46 Riffles and Pools for discussion of channelization).

§ 230.35 Salinity.

Salinity gradients form where salt water from the ocean meets and mixes with fresh water from land. These gradients exist in response to the natural forces that create and move masses of water.

(a) *Environmental characteristics and values.* The distribution of many aquatic species is associated with the salinity gradient of an aquatic area. Plant and animal communities adapted to particular salinity gradients form specialized communities within the larger aquatic ecosystem. Species, such as brown and white shrimp, spawn in the ocean, then migrate to nursery and maturation areas in the low-salinity waters of the bays, estuaries, and coastal marshes; their spawning and migratory behavior being closely adapted to the salinity gradient in certain aquatic areas. The manner in which fresh and salt water mix in estuarine areas is an important factor contributing to the role estuaries play as sediment traps. This is determined by the relative magnitude of the river flow and the tidal flow. In a river-dominated estuary, a salt-wedge develops and salt water flows upstream along the bottom while fresh water flows seaward in the upper levels. The upstream edge of this salt-wedge marks the point of maximum sedimentation. This upstream edge will migrate up and down the estuary yearly and seasonally in response to changes in the volume of river flow. In an estuary dominated by tidal flow, the salt wedge is destroyed and more thorough mixing occurs. There is a salinity gradient from the upstream to the downstream portion of the estuary, as well as vertically from surface to substrate, which is characteristic of the estuary.

(b)(1) *Possible loss of environmental characteristics and values.* Adverse impacts from dredged or fill material are principally caused by obstructions that divert or restrict the flow of either the fresh or salt water. These diversions and restrictions can effect permanent changes in the local areas by causing a shift in the salinity patterns.

(2) Partial blocking of the entrance to an estuary or river mouth will restrict the movement of the salt water into and out of that area. This can effectively lower the volume of salt water available for mixing that estuary. The circulation pattern will be altered, the salinity gradient will move downstream, sedimentation is displaced, and the associated aquatic biota must adjust to the new conditions.

(3) In the freshwater zone, disposal operations in the upstream regions can have equally adverse impacts. Any reduction in the volume of fresh water moving into the estuary will affect the location and type of mixing, changing the characteristic salinity pattern. The circulation pattern is altered, the salinity gradient and/or salt-wedge moves upstream, municipal water supplies can be affected, sedimentation areas are displaced, and the biota must move to new locations to find the portion of the salinity gradient to which they are adapted.

(c) *Guidelines to minimize impacts.* Adherence to the Guidelines for the protection of current patterns and water circulation and normal water fluctuations, §§ 230.33 and 230.34 will protect salinity patterns and the environmental values they support.

Subpart E—Special Aquatic Sites

§ 230.40 Sanctuaries and refuges.

Sanctuaries and refuges consist of areas designated and managed principally for the preservation of fish and wildlife.

(a) *Values.* Sanctuaries and refuges maintain and enhance the habitat for resident and transient fish and wildlife populations. They serve the functions of providing food resources and protective cover, and provide areas for reproduction and nursery grounds. Sanctuaries and refuges are managed to control predator populations and provide protection from interferences by man.

(b) *Possible loss of values.* The discharge of dredged or fill material can reduce suitable habitats either temporarily or permanently, interfere with spawning, migratory or other life stage activities and by contamination, concealment or destruction, reduce the availability of food for fish and wildlife. Discharges of dredged and fill material may increase incompatible human presence by providing persons ready access to remote areas or by requiring frequent maintenance activity. Modification of the environment by dredge and fill operations may provide a habitat for predators or competitively exploitive species of plants and animals.

(c) *Guidelines to Miminize Impacts.* In addition to the consideration of

alternatives in § 230.10(a), the Guidelines to minimize impacts as described in § 230.10(d), and water dependency in § 230.10(e), specific Guidelines to minimize adverse effects on sanctuaries and refuges include, but are not limited to:

(1) Selecting sites that will not result in long-term changes in valuable fish and wildlife habitat.

(2) Selecting sites that will not increase incompatible human activity causing significant impacts on fish and wildlife, or require the need for frequent maintenance activity in remote fish and wildlife areas.

(3) Selecting sites or managing discharges in a way to prevent or to control the creation of habitat for undesirable predators or competitive species of plants or animals.

(4) Not discharging at times during the breeding, migratory and other critical life stages of resident of transient fish, wildlife and other aquatic organisms.

(5) Enhancing habitat characteristics of the area, in a manner consistent with management practices.

(6) The specific Guidelines related to other special aquatic sites which exist within a sanctuary or refuge should also be examined.

(d) *Special determinations.* In addition to the determinations required by § 230.20 and § 230.30, special determinations where sanctuaries and refuges may be affected by discharges of dredged or fill material include whether the discharge will:

(1) Disrupt the breeding, spawning, migratory or other critical life states of resident or transient fish and wildlife;

(2) Create ready human access to remote aquatic areas;

(3) Create the need for frequent maintenance activity;

(4) Result in the establishment of undesirable competitive species of plants and animals;

(5) Modify the sanctuary or refuge management practices by changing the balance of water and land areas needed to provide cover, food, and other fish and wildlife habitat requirements;

(6) Be acceptable to sanctuary or refuge managers or supporters of the refuge or sanctuary;

(7) Allow for subsequent modification for restoration or habitat development of existing habitat.

§ 230.41 Parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves.

These nature preserves consist of areas designated and managed for their aesthetic, educational, historical, recreational, or scientific value.

(a) *Values.* Managed use of these natural areas is designed to preserve them in their natural states. The management of these areas ensures the general public continued access to sites of historical, educational, recreational and scientific importance while protecting them from overuse. The restriction of certain activities in areas valuable for scientific research preserves those sites in their natural states for the collection of scientific information.

(b) *Possible loss of values.* The discharge of dredged or fill material into such areas could modify the aesthetic, educational, historical, recreational and/or scientific qualities thereby reducing or eliminating the uses for which such sites are set aside and managed.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), the Guidelines to minimize impacts described in § 230.10(d), and water dependency in § 230.10(e), specific Guidelines to minimize adverse effects on these designated natural areas include but are not limited to:

(1) Selecting a disposal site that will not result in a significant or irreversible loss in the specific values for which an area is being managed and protected.

(2) Specific Guidelines for other aquatic sites which exist within a preserve should also be examined.

(d) *Special determinations.* In addition to the determinations required by § 230.20 and § 230.30, special determinations, where these designated natural areas may be affected by discharges of dredged or fill material, include whether the discharge will:

(1) Modify management practices for the park, National or historical monument, National seashore, wilderness area, or research site under consideration for discharge.

(2) Be acceptable to users and managers of such areas.

(3) Allow for subsequent modification for restoration or habitat development of existing areas.

§ 230.42 Wetlands.

Wetlands consist of areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Comment: Wetlands are the subject of Federal Executive Order No. 11990, Federal programs, and State law and programs in addition to section 404 of the Act. As a result, a number of wetland definitions have been codified or otherwise formally published and information is being collected and organized into wetland classification systems. The definition and classification systems differ in at least some particulars to accomodate or emphasize specialized needs. In these Guidelines, wetlands (§ 230.42) are distinguished from mud flats (§ 230.43) and vegetated and unvegetated shallows (§ 230.44) although by some classification systems all of these systems would be classified as wetlands. In addition, in particular circumstances, portions of sloughs, prairie potholes, wet meadows, river bottomlands, and other areas may be wetlands under section 404. Permanently inundated areas such as vegetated and unvegetated shallows (§ 230.44) and riffles and pools (§ 230.46) are considered to be open water. Where open water exists, wetlands, mud flats, sand flats, beaches, etc., constitute the transition to upland. The margin between wetland and open water can best be established by specialists familiar with the local environment, particularly where emergent vegetation merges with submerged vegetation over a broad area in such places as the lateral margins of open water, in headwaters, in rainwater catch basins, and at groundwater seeps. The landward margin of wetlands also can best be identified by specialists familiar with the local environment when vegetation from the two regions merges over a broad area. Wetland vegetation consists of plants that require wet soils to survive (obligate wetland plants) as well as plants, including certain trees, that gain a competitive advantage over others because they can tolerate prolonged wet soils conditions and their competitors cannot. In addition to plant populations and communities, vegetated wetlands are delimited by hydrological and physical characteristics of the environment. These characteristics should be considered when information about them is needed to supplement information available about vegetation, or where wetland vegetation has been removed or is dormant.

(a) *Values.* Wetlands serve important natural biological functions. They can support high biological productivity, especially in estuarine systems. Some wetlands may exchange nurtients through water circulation patterns thereby affecting adjacent ecosystems. Wetlands provide habitat for resident aquatic and terrestial species. Many nonresident species depend on wetlands

for food and as habitat at certain stages in their life cycle. For example, wetlands function as spawning and nursery areas for many fish species, and resting areas for migratory waterfowl. Functioning as a buffer zone, wetlands shield upland areas from wave action, erosion, and storm damage. Some wetlands also serve as storage areas for storm and flood waters. Wetlands may also have beneficial effects on water quality. Pollutants in runoff from surrounding upland areas or in water flushing wetlands may be retained or converted to innocuous forms protecting water quality in receiving waters. Wetlands influence natural drainage characteristics, water circulation, and sedimentation patterns. Wetlands may serve as aquifer recharge areas.

(b) *Possible loss of values.* The discharge of dredged or fill material in wetlands is likely to damage or destroy habitat or adversely affect the biological productivity of wetland eocsystems by smothering, dewatering, permanently flooding, or altering periodicity of water movement. Wetland vegetation is extremely sensitive to changes in substrate elevation. The addition of dredged or fill material may destroy wetland vegetation or result in advancement of succession to dry land species. Dredged or fill activities may reduce or eliminate nutrient exchange by a reduction of the system's productivity, or altering current patterns and changing velocities. Disruption of the wetland system can result in degradation of water quality. Discharging fill material in wetlands as part of municipal, industrial or recreational development may modify the capacity of wetlands to retain and store floodwaters and to serve as a buffer zone shielding upland areas from storm damage and erosion. The discharge of dredge and fill material in wetlands can obstruct sheet flow or circulation patterns that flush large expanses of adjacent wetland systems. When disruptions in flow and circulation patterns occur, apparent minor loss of wetland acreage may result in major losses through secondly impacts.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), Guidelines in minimize impacts described in § 230.10(d), and water dependency in § 230.10(e), special Guidelines to minimize adverse effects on wetlands include, but are not limited to:

(1) Restoring the elevation, substrate type, and circulation patterns as soon as possible following the completion of any necessary construction or other discharge activity in a wetland to provide conditions for natural restoration of vegetation in disturbed areas.

(2) Restoring or developing habitat in disrupted wetlands by revegetation with the native wetland species removed by the activity.

(3) Establishing new wetlands with the disposal material where suitable sites and conditions exist and other components of the ecosystem such as vegetated shallow water areas will not be disrupted.

(4) Using machinery and techniques that are especially designed to reduce damage to wetlands. This may include machinery with specially designed wheels or tracks, machines equipped with devices that scatter rather than mound excavated materials, and the use of mats under heavy equipment to reduce wetland surface compaction and rutting.

(5) Limiting the number and extent of construction access roads and temporary fills in wetlands that may be required for the dredge or fill activity.

(6) Implementing habitat development which is compatible with other parts of the ecosystem. These measures may include but are not limited to:

(i) Establishing fish or wildlife habitat or food crop vegetation at the disposal site;

(ii) High mounding the discharged material in confined sites to create wildlife habitat.

(7) Discharging at times of the year which will minimize adverse effects on the wetlands ecosystem.

(d) *Special Determinations.* In addition to the determinations required by § 230.20 and § 230.30, special determinations where wetlands may be affected by discharges of dredged or fill material include whether the discharge will individually or cumulatively:

(1) Significantly change or affect the productivity or the nutrient exchange capability of a wetland area.

(2) Significantly change the capacity of a specific wetland type for protecting other areas from wave actions, erosion, or storm damage.

(3) Significantly change the capacity of a wetland to store storm and flood waters.

(4) Significantly change the aquifer recharge capability of a wetland.

(5) Significantly change the wetland as habitat for fish and wildlife.

§ 230.43 Mud flats.

Mud flats are located along the sea coast and in coastal rivers to the head of tidal influence and in inland lakes, ponds, and riverine systems.They are broad, flat areas, which when inundated are subject to the resuspension of bottom sediments by wind induced wave action. Coastal mud flats are exposed at extremely low tides and inundated at high tides with the water table at or near the surface of the substrate. The substrate of mud flats contains organic material and particles smaller in size than sand. They are either unvegetated or vegated only by algal mats.

(a) *Values.* Mud flats serve as habitats for shellfish and other invertebrates. They serve as nursery, spawning, and foraging areas for many fish, other aquatic species, birds, and other animals. Primary productivity in mud flats is centered in algal mats and diatoms. The decomposition of organic material in mud flats by chemical and biological processes contributes nutrients to the water column. Mud flats delay and thereby reduce the adverse effects of storm surge and runoff from surrounding uplands.

(b) *Possible loss of values.* The discharge of dredged or fill material can cause changes in water circulation pattern which may disrupt periodic inundation or permanently flood or dewater the mud flat. Such changes can deplete or eliminate mud flat biota, foraging areas, and nursery areas. Changes in inundation patterns also can affect the chemical and biological decomposition processes occurring on the mud flat and change the deposition of suspended material affecting the productivity of the area. Changes may reduce the mud flat's capacity to dissipate storm surge runoff.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), the guidelines to minimize impacts described in § 230.10(d), and water dependency in § 230.10(e), special Guidelines to minimize adverse effects on mud flats include, but are not limited to:

(1) Designing the discharge to avoid a disruption of the periodic inundation patterns.

(d) *Special determinations.* In addition to the determinations required by § 230.20 and § 230.30, special determinations where coastal mud flats may be affected by discharges of dredged or fill material include whether the discharge will:

(1) Significantly change the periodic inundation patterns, resulting in an increase in the rate of erosion or accretion.

(2) Significantly change the periodic inundation patterns, resulting in adverse modifications of the mud flat as fish, shellfish and wild life habitat.

(3) Significantly change the periodic inundation patterns, resulting in

modification of the chemical and biological decomposition process of the mud flat.

(4) Significantly change the periodic inundation patterns, resulting in a reduction of the storm surge dissipating capacity of the mud flat.

§ 230.44 Vegetated and unvegetated shallows.

Vegetated shallows are permanently inundated areas that under normal circumstances support rooted aquatic vegetation such as turtle grass and eelgrass as well as a number of freshwater species. Unvegetated shallows are permanently inundated near shore areas.

(a) *Values.* Vegetated shallows are highly productive areas where the productivity is centered in the vegetation. Such vegetated beds provide food, cover, spawning, nursery, and forage areas for many aquatic organisms as well as wildlife. Harvestable aquatic organisms are concentrated in and around such beds. These vegetated shallows stabilize bottom materials and decrease turbidity and channel shoaling. Unvegetated shallows furnish benefits of food, spawning and nursery areas, and forage for many aquatic organisms, as well as wildlife. Both types of shallows constitute a buffer to protect shorelines from erosion and wave action.

Comment: Vegetation in shallow water does not always constitute an integral component of a productive, balanced ecosystem in a special aquatic site. Rooted vascular vegetation may erupt in response to excessive nutrients introduced by man directly and indirectly, because it is an exotic species with inadequate natural controls, or for other reasons. In extreme cases, when ponds or navigation channels are completely weed-choked by vascular vegetation, the nuisance factor is clear and the values of vegetated shallows are largely negated. The ecology of shallow water vegetation is complex and deserves professional consideration to prevent damage to productive natural systems while allowing control of nuisance growths.

(b) *Possible loss of values.* The discharge of dredged or fill material can smother vegetation and benthic organisms. It may also create unsuitable conditions for their continued vigor by changing water circulation patterns, releasing nutrients that increase algal populations, releasing chemicals that adversely affect plants and animals, increasing turbidity levels, or by reducing light penetration. The discharge of dredged or fill material may reduce the value of vegetated and unvegetated shallows as nesting, spawning, nursery, cover, and forage areas, as well as their value in protecting shorelines from erosion and wave actions.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), the Guidelines to minimize impacts in § 230.10(d), and water dependency in § 230.10(e), specific Guidelines to minimize adverse impacts in vegetated and unvegetated shallows include but are not limited to:

(1) Locating and confining the discharge to avoid smothering productive beds of vegetation and concentrations of benthic life.

(2) Determining the point of discharge, the discharge site, and the method of discharge into the water column which will minimize the extent of any plume and the deposition zone where the discharge would adversely affect the vegetation, aquatic organisms, and other wildlife in a vegetated or unvegetated shallow.

(3) Locating and otherwise designing the discharge to avoid significant changes in water circulation patterns which are essential to the productivity of the shallow area.

(4) Timing the discharge to avoid interferences with the spawning, nursery, and nesting activities of aquatic organisms and associated wildlife.

(5) Restoring or transplanting vegetated beds where beneficial and where conditions at the site permit.

(d) *Special determinations.* In addition to the determinations required by § 230.20 and § 230.30, special determinations where vegetated and unvegetated shallows may be affected by discharges of dredged or fill material include whether the discharge will:

(1) Smother vegatated beds or benthic organisms.

(2) Significantly change or affect the species present or the productivity of the vegetation or the benthic organisms associated with a shallow area.

(3) Significantly change the capacity of a vegetated shallow for stabilizing bottom materials and for decreasing turbidity and channel shoaling.

(4) Significantly change the capacity of vegetated or unvegetated shallows to protect shorelines from erosion and wave action.

(5) Significantly change the capacity of the area to exchange organic matter and nutrients.

§ 230.45 Coral reefs.

Coral reefs consist of the skeletal deposit, largely of calcareous or silicaceous materials, produced by the vital activities of anthozoan polyps or other invertebrate orgamisms and include the colonies of organisms present in growing portions of the reef.

(a) *Values.* Coral reefs are highly productive areas where the productivity is centered in the reef building organisms. Coral reefs provide food, cover, spawning, nursery, and forage areas for many species of highly specialized aquatic organisms. They constitute a unique environment in which many rare forms or brilliantly colored fish and other organisms are concentrated. They serve as a site at which such organisms can be observed under natural conditions by scientists and others.

(b) *Possible loss of values.* The discharge of dredged or fill material can adversely affect colonies of reef building organisms by releasing contaminants such as hydrocarbons into the water column, by burying them, by reducing light penetration through the water, and by increasing the level or suspended particulates. Coral organisms are extremely sensitive to even slight reductions in light penetration or increases in suspended particulates. These adverse effects will cause a loss of productive colonies which provides habitat for many species of highly specialized aquatic organisms.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), the Guidelines to minimize impacts in § 230.10(d), and water dependency in § 230.10(e), specific Guidelines to minimize adverse impacts on coral reefs include, but are not limited to:

(1) Selecting sites or managing discharges to confine and minimize the release of suspended particulates which would result in reductions in light penetration or increase in turbidity levels in the proximity of a coral reef. Water current and circulation patterns which may transport material into or across a coral reef must be considered.

(d) *Special determiniations.* In addition to the determinations required by § 230.20 and § 230.30, special determinations where coral reefs may be affected by discharges of dredged or fill material include whether the proposed discharge will:

(1) Smother colonies of reef building organisms.

(2) Significantly change or affect the productivity of reef building colonies by reducing light penetration or increasing water turbidity.

(3) Result in significant reductions in light penetration or increases in water turbidity due to the transportation of suspended particulates by current and circulation patterns onto or across a coral reef.

§ 230.46 Riffles and pools.

Upland and steep gradient streams generally have alternating segments of riffles and pools. Riffles are well oxygenated shallow areas with coarse substrates. Pools are areas between riffles where water generally is deeper and stream velocity is slower, allowing for the settling of particulates to the substrate.

(a) *Values.* (1) Riffles and pools are vital habitats for fresh water aquatic life. The abundance of riffles and pools and the ratio of riffles to pools are important factors in the kinds and amounts of habitat available to stream communities. Riffles aid in the oxygenation and filtration of streams. They are valuable spawning areas for fish requiring well-oxygenated areas for egg maturation. In addition, riffles support complex and productive habitats inhabited by algae, worms, snails, crustacea, aquatic insects, and fish. These organisms are vital links in the aquatic food chain. Drift of riffle-related invertebrates and organic matter aids in repopulating downstream areas.

(2) Pools, characterized by low stream velocity and greater depth, act as stream sedimentation basins and provide shelter and feeding habitat for mature fish. Pools and meanders act to control stream velocity and water discharge rates.

(b) *Possible loss of values.* (1) Discharge of dredged or fill material can eliminate riffle and pool areas by displacement, hydrologic modification, or sedimentation. Activities which affect riffle and pool areas or riffle/pool ratios reduce the aeration and filtration capabilities at the discharge site and downstream, and may retard any repopulation of downstream waters.

(2) The discharge of dredged or fill material which alters stream hydrology may cause scouring or sedimentation of riffles and pools. Sedimentation induced through hydrological modification or as a direct result of the deposition of unconsolidated dredged or fill material may clog riffle and pool areas, destroy habitats, and create anaerobic conditions. Eliminating pools and meanders by the discharge of dredged or fill material through channelization or otherwise can reduce water holding capacity of streams and cause rapid runoff from a watershed. Rapid runoff can deliver large quantities of flood water in a short time to downstream areas resulting in the destruction of natural habitat, high property loss, and the need for further hydrological modification.

(c) *Guidelines to minimize impacts.* In addition to the considerations of alternatives in § 230.10(a), the Guidelines to minimize impacts as described in § 230.10(d), and water dependency in § 230.10(e), specific Guidelines to minimize adverse impacts on riffles and pools include, but are not limited to:

(1) Selecting an upland disposal site where available and where determined to be an environmentally satisfactory alternative (§ 230.10(a)).

(2) Locating and containing unconsolidated dredged or fill material to prevent its deposition in riffle and pools areas.

(3) Minimizing or preventing changes in stream hydrology which would cause significant increases in scouring or sedimentation of riffles and pools.

(d) *Special determinations.* In addition to determinations required by § 230.20 and § 230.30, special determinations where riffle and pools may be affected by discharges of dredged or fill material include whether the discharge will:

(1) Result in the alteration or elimination of riffle and pools areas and their value as aeration and filtration zones.

(2) Modify stream hydrology causing increased scouring or sedimentation of riffles and pools.

(3) Increases sedimentation in pool areas.

(4) Reduce the water holding capacity of streams.

(5) Result in the deposition of unconsolidated material on coarse substrates, reducing the value of riffle areas as aeration and filtration zones and as habitat for specially adapted stream communities.

Subpart F—Communities and Populations of Organisms Dependent on Water Quality

§ 230.50 Mollusks.

Mollusks consist of oysters, clams, scallops, and other members of the Order Mollusca.

(a) *Values.* Mollusks serve as an important link in the food chain for many species of fish, birds and mammals. Some species rely on mollusks as their primary food source. Like most aquatic and wetland biota, mollusks are valued as contributors to the ecological diversity of the aquatic and wetland environment. In addition, they contribute directly to the economy and diet of persons in the form of food, agricultural supplies, and manufactured items.

(b) *Possible loss of values.* Discharge of dredged and fill material may result in the debilitation or death of mollusks by smothering, exposure to chemical contaminants in dissolved or suspended form, exposure to high levels of suspended particulates, reduction in food supply, or alteration of the substrate upon which they are dependent. Mollusks are particularly sensitive to the discharge of material during periods of reproduction and growth and development. Mollusks can be rendered unfit for human consumption by tainting, by ingestion and retention of pathogenic organisms, viruses, heavy metals or persistent synthetic organic chemicals, or through the stimulation of toxin production.

(c) *Guidelines to minimize impacts.* In addition to the considerations of alternatives in § 230.10(a), the Guidelines to minimize impacts in § 230.10(d), and water dependency in § 230.10(e), specific Guidelines to minimize adverse impacts on mollusks include, but are not limited to:

(1) Selecting discharge sites removed from areas of concentrated mollusk populations.

(2) Containing the discharge to prevent or minimize the release of contaminated material and suspended particulates in the proximity of mollusk populations (see measures described in § 230.10(d)).

(3) Timing the discharge to minimize or prevent interference with the reproductive success of mollusks or the growth and development of juvenile forms.

(d) *Special determinations.* In addition to the determinations required by § 230.20 and § 230.30, special determinations where mollusk populations may be affected by the discharge of dredged or fill material include whether the discharge will:

(1) Smother concentrated mollusk populations.

(2) significantly change or affect the suitability of the substrate as habitat for mollusk populations.

(3) Result in the chemical contamination of mollusk populations, reducing their value as a recreational or commercial food source.

(4) Significantly impair the filter-feeding capacities of mollusk populations due to increased levels of suspended particulates.

(5) Significantly interfere with the reproductive success of mollusk populations or the growth and development of juvenile forms through exposure to chemical contaminants or suspended particulates, or by other means.

§ 230.51 Fish, crustacea, and food chain organisms.

Aquatic food chain organisms include, but are not limited to, finfish, crustacea,

annelids, mollusks, planktonic organisms, and the plants and animals on which they feed. All forms and life stages of an organism, as well as its geographic range, are included in this category.

(a) *Values.* Fish, crustacea, and aquatic food chain organisms exhibit diverse adaptation to the aquatic ecosystem, and perform specific functions in the food web of these ecosystems. These organisms provide vital links in the transfer of energy from primary productivity to higher trophic levels. These links ensure the continued overall productivity of the ecosystem. The production of the aquatic food chains support recreational and commercial fisheries, thereby linking man as the ultimate consumer.

(b) *Possible loss of values.* The discharge of dredged or fill material can reduce populations of fish, crustacea, and other food chain organisms directly through the release of contaminants which adversely affect adults, juveniles, larvae and eggs. Suspended particulates settling on adhesive or buried eggs can smother the eggs. The movement of fish and crustacea can be redirected or stopped, thus preventing the aggregation of organisms in accustomed places such as spawning grounds. Reduction of detrital feeding species can impair the flow of energy from primary consumers to higher trophic levels. The reduction or potential elimination of food chain organism populations decreases the overall productivity and nutrient export capability of the ecosystem.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), the Guidelines to minimize impacts as described in § 230.10(d), and water dependency in § 230.10(e), specific measures to minimize impacts on fish, crustacea, and other food chain organisms include, but are not limited to:

(1) Following procedures to minimize or reduce the amount of suspended particulates in the water column as described in § 230.31(c)(1), (2) and (3).

(2) Discharging dredged or fill material that contains contaminants which are potentially bioaccumulative in the tissues of food chain organisms away from areas of food chain productivity.

(3) Selecting discharge methods and disposal sites to minimize or prevent interference with the movement of fish, crustacea, and other food chain organisms, or reductions in the value of aquatic habitat due to changes in patterns of water flow and circulation. Discharge material may be spread or scattered on the disposal site to reduce the effects of mounting or changing elevation. Current patterns may be used to mix, disperse, and dilute the discharge.

(4) Not discharging during periods of breeding, migration and other critical life stages of resident or transient aquatic food chain organisms, nor during spawning cycles of finfish.

(5) Restoring aquatic food chain organism habitat conditions following the completion of the discharge or construction.

(6) Enhancing aquatic food chain organism habitat where site conditions are feasible.

(7) Selecting sites or managing discharges in a way to prevent or control the creation of habitat for undesirable predators or competitive species of plants and animals.

(d) *Special determinations.* In addition to the determinations required by § 230.20 and § 230.30 special determinations where fish, crustacea and other food chain organisms may be affected by discharges of dredged or fill material include whether or not the discharge will:

(1) Disrupt the breeding, spawning, migratory or other critical life stages of aquatic food chain organisms.

(2) Result in the establishment or proliferation of undesirable competitive species of plants and animals, at the expense of resident species.

(3) Change or affect the productivity or the nutrient export capability of an area.

§ 230.52 Wildlife.

Wildlife associated with aquatic ecosystems, including wetlands, are resident and transient mammals, birds, reptiles, and amphibians, among others.

(a) *Values.* (1) All species of wildlife are valuable members of the particular aquatic ecosystem to which they belong. The interactions of a species with the vegetation and other members of the community are integral to the continued functioning of the ecosystem.

(2) Wildlife species and communities are of special scientific, educational, recreational, and aesthetic value to the human population, providing opportunities for nature study, research, bird-watching, photography and hunting. Wildlife species additionally serve as sensitive indicators of changes in air and water quality. Some species of wildlife are of economic value, as in the trapping of furbearers, and the hunting of waterfowl.

(b) *Possible loss of values.* The discharge of dredged or fill material can result in the loss of breeding and nesting areas, escape cover, and preferred food sources for resident and transient wildlife species associated with the aquatic ecosystem. These adverse impacts upon wildlife habitat may result from changes in water levels, water flow and circulation, salinity, chemical content, and substrate characteristics and elevation. Increased water turbidity can adversely affect wildlife species which rely upon sight to feed, and disrupt the respiration and feeding of aquatic wildlife and food chain organisms. The availability of contaminants in the discharge of dredged or fill material may lead to the bioaccumulation of such contaminants in aquatic wildlife. Changes in such physical and chemical factors of the environment may favor the introduction of undesirable plant and animal species at the expense of resident species and communities. Losses in plant and animal species diversity may disrupt the normal functioning of the aquatic ecosystem, leading to reductions in biological productivity.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), the Guidelines to minimize impacts as described in § 230.10(d), and water dependency in § 230.10(e), specific Guidelines to minimize adverse effects on wildlife include, but are not limited to:

(1) Selecting discharge methods and disposal sites to minimize or prevent interference with the movement of wildlife, or reductions in the value of aquatic or wetland habitat due to changes in patterns of water flow and circulation.

(2) Selecting a discharge site that will not result in increased human access, or require the need for frequent maintenance activity in remote or highly productive wildlife habitat.

(3) Not discharging during periods of breeding, migration, and other critical life stages of resident or transient wildlife species, or during the spawning cycles of fish, upon which some wildlife depend for food.

(4) Restoring aquatic wildlife habitat conditions following the completion of the discharge or construction activity.

(5) Developing or restoring aquatic wildlife habitat where site conditions are feasible.

(d) *Special determinations.* In addition to the determinations required by § 230.20 and § 230.30, special determinations where wildlife may be affected by discharges of dredged or fill material include whether the discharge will:

(1) Significantly change or affect breeding and nesting grounds, resting areas and escape cover, and preferred food sources for wildlife.

(2) Result in the introduction of undesirable plant or animal species that significantly affect resident species and communities.

(3) Result in significant changes in wildlife populations including abundance and diversity.

(4) Significantly affect the scientific, educational, aesthetic, and recreational values associated with wildlife communities at the disposal site.

§ 230.53 Threatened and endangered species.

An endangered species in any species which is in danger of extinction throughout all or a significant portion of its range. A threatened species is one which is in danger of becoming an endangered species in the foreseeable future throughout all or a significant portion of its range. The continued existence of any such species may be threatened by: (1) the present or threatened destruction, modification, or curtailment of its habitat or range; (2) over-utilization for commercial, sporting, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; or (5) other natural or man-made factors affecting its survival. Listings of threatened and endangered species and their critical habitats is maintained by the U.S. Fish and Wildlife Service of the Department of the Interior. The Department of Commerce has authority over some marine mammals, fish and reptiles.

(a) *Values.* Threatened and endangered species, by the fact of their scarceness and vulnerability to extinction, are of major importance in terms of historical, educational, and scientific interest. The extinction of an endangered species represents an irretrievable loss of potentially valuable scientific knowledge.

(b) *Possible loss of values.* The major impact from the discharge of dredged or fill material on threatened or endangered species is through the impairment or destruction of habitat to which these species are specially adapted. Elements of the aquatic habitat which are particularly crucial to threatened or endangered species include good quality water, spawning and maturation areas, nesting areas, protective cover, adequate and reliable food supply, and resting areas for migratory species. These elements can be adversely affected by changes in normal conditions like water clarity, chemical content, nutrient balance, dissolved oxygen, pH, temperature, salinity, current patterns and water circulation, and water fluctuation, or the physical removal of habitat.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), the Guidelines to minimize impacts as described in § 230.10(d), and water dependency in § 230.10(e), the Guidelines for the protection of fish, wildlife, and other organisms (§ 230.51) should be followed, with special attention to the fact that an endangered species may be less able to withstand adverse impacts and usually is not capable of reestablishing itself. Attention should also be given to legislation which protects threatened or endangered species and their habitats.

(d) *Special determinations.* In addition to the determinations required by § 230.20 and § 230.30, special determinations where endangered and threatened populations may be affected by the discharge of dredged or fill material include whether the discharge will significantly change or affect the aquatic or wetland habitat which supports any threatened or endangered plant of animal species.

Subpart G—Human Use Characteristics

§ 230.60 Municipal and private water supplies.

Municipal and private water supplies consist of that portion of natural or open bodies of water or groundwater which is directed to an intake of a municipal or private water supply system.

(a) *Values.* The quality and quantity of water for human consumption is of paramount importance to the quality of life and social well-being.

(2) *Possible loss of values.* Water can be rendered unpalatable or unhealthy by the addition of suspended particulates, viruses and pathogenic organisms, and dissolved materials. The expense if removing such substances before delivery for consumption can be high. In addition, certain currently standard water treatment chemicals have the potential for combining with some suspended or dissolved substances to form other products that can have a toxic impact on consumers.

(b) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), the Guidelines to minimize impacts as described in § 230.10(d), and water dependency in § 230.10(e), specific measures to minimize impacts on municipal and private water supplies include, but are not limited to:

(1) Selecting a disposal site removed from the vicinity of municipal and private water supply intake zones, recognizing the potential for transportation of the dredged material in the liquid or suspended particulate phases into the vicinity of a water supply intake zone. (Also, see impact minimizing measures described in § 230.31(c) and § 230.32(c)).

(2) Preventing or minimizing the dispersion of dissolved and suspended particulates released into the water column where the discharge of dredged or fill material in the proximity of a water supply intake is essential to maintaining or improving such supplies. (See measures described in § 230.31(c) and § 230.32(c).)

(c) *Special determinations.* In addition to the determinations required by § 230.20 and § 230.30, special determinations where municipal and private water supplies may be affected by discharge of dredged or fill material include whether the discharge will:

(1) Affect the quality of water supplies with respect to color, taste, odor, chemical content and suspended particulate concentration, in such a way as to reduce the fitness of the water for consumption.

(2) Affect the quantity of water available for municipal and private water supplies.

(3) Affect the cost of water treatment and purification.

§ 230.61 Recreational and commercial fisheries.

Recreational and commercial fisheries consist of harvestable fish, crustacea, shellfish, and other aquatic organisms for use by man.

(a) *Values.* Recreational and commercial fisheries make major contributions to local, state, and national economies. Recreational fishing provides opportunities for a large number of participants, each removing a small fraction of the catch. Commercial fisheries represent an important source of food and raw materials for use by man. In addition, commercial fisheries support important processing and distribution services. Both commercial and recreational fisheries support specialized equipment manufacturers and service industries. The value of recreational and commercial fisheries is reflected in the significant management and enforcement efforts which currently exist at the national and state levels.

(b) *Possible loss of values.* The discharge of dredged or fill materials can modify the characteristics of the aquatic environment, reducing the productivity of accustomed fishing grounds and dispersing certain species. The introduction of contaminants may impart undesirable taste or contaminate edible parts of the organism with pathogens or viruses, resulting in closures of fishing grounds. In addition,

populations of commercially important aquatic organisms or organisms upon which they depend for food may be reduced by the introduction of pollutants at critical stages in their life cycle that affects them directly or destroys necessary habitat. Any of these impacts can be of short duration or prolonged, depending upon the physical and chemical impacts of the discharge and the biological availability of contaminants to aquatic organisms.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), Guidelines to minimize impacts as described in § 230.10(d), water dependency in § 230.10(e), and the specific measures described in § 230.51(c), specific measures to minimize impacts on recreational and commercial fisheries include, but are not limited to:

(1) Selecting discharge sites that are not recognized fishing grounds or areas upon which life-history stages of such species are not dependent.

(2) Containing the discharge to prevent or minimize the release of contaminants, such as hydrocarbons, capable of imparting undesirable tastes or odors to the flesh of edible aquatic organisms.

(3) Timing the discharge to avoid interference with critical periods in the life cycles of important harvestable aquatic organisms, and with peak seasons of commercial or recreational fishing activity.

(4) Preventing significant physical alteration of bottom profile so as not to preclude the efficient use of existing commercial fishery equipment.

(d) *Special determinations.* In addition to the determinations required by § 230.20 and the special determinations required by § 230.51(d), special determinations where recreational and commercial fisheries may be affected by the discharge of dredged or fill material include whether the discharge will:

(1) Change or affect the suitability of recreational and commercial fishing grounds as habitat for populations of edible aquatic organisms.

(2) Result in the chemical contamination of recreational or commercial fisheries.

(3) Interfere with the reproductive success of recreational and commercially important aquatic species through disruption of spawning or migration areas.

§ 230.62 Recreation.

Recreation encompasses activities undertaken for amusement and relaxation. Water related outdoor recreation requires the use, but not necessarily the consumptive use, of natural aquatic sites and resources, including wetlands.

(a) *Values.* Much of our outdoor recreation is water-dependent. A host of activities, including fishing, swimming, boating, water-skiing, racing, claming, camping, beachcombing, picknicking, waterfowl hunting, wildlife photography, bird watching and scenic enjoyment, take place on, in, or adjacent to, the water. In many parts of the country, space and resources for aquatic recreation are in great demand. Water quality is a vital factor in determining the capacity of an area to support the various water oriented outdoor recreation activities.

(b) *Possible loss of values.* One of the more important direct impacts of dredged or fill disposal is on aesthetics; more serious impacts impair or destroy the resources which support recreation activities. Among the water quality parameters of importance to recreation that can be impacted by the disposal of dredged or fill material are turbidity, suspended particulates, temperature, dissolved oxygen, dissolved materials, toxic materials, pathogenic organisms, degradation of habitat, and the aesthetic qualities of sight, taste, odor, and color. Changes in the levels of these parameters can adversely modity or destroy water use for serveral or all of the recreation activities enjoyed in any given area.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), Guidelines to minimize impacts as described in § 230.10(d), and water dependency in § 230.10(e), and the specific measures described in Subparts E and F, where appropriate, specific measures to minimize impacts on recreational resources include, but are not limited to:

(1) Selecting discharge sites removed from areas of recognized recreational value.

(2) Selecting time periods of discharge that do not coincide with seasons or periods of high recreational use.

(3) Use of procedures and methods as described in § 230.31(c) and § 230.32(c) to minimize and contain the amounts of suspended particulates and dissolved contaminants, including nutrients, pathogens, and other contaminants released to the water column.

(d) *Special determinations.* In addition to the determinations required by § 230.20, and the special determinations required by Subparts E and F, where appropriate, special determinations where recreational areas may be affected by the discharge of dredged or fill material include whether the discharge will:

(1) Change or affect the suitability of an area of high recreational value to provide recreational opportunities.

§ 230.63 Aesthetics.

Aesthetics, associated with the aquatic ecosystem, including wetlands, consist of the perception of beauty by one or a combination of the senses of sight, hearing, touch, and smell. Aesthetics of aquatic ecosystems apply to the quality of life enjoyed by the general public as distinct from the value of property realized by owners as a result of access to such systems (see § 230.64).

(a) *Values.* The aesthetic values of aquatic areas are usually the enjoyment and appreciation derived from the natural characteristics of a particular area. Aesthetic values may include such parameters as the visual distinctiveness of the elements present, which may result from prominence, contrasts due to irregularity in form, line, color, and pattern; the diversity of elements present including topographic expression, shoreline complexity, landmarks, vegetative pattern diversity, waterform expression, and wildlife visability; and the compositional harmony or unity of the overall area..

(b) *Possible loss of values.* The discharge of dredged or fill material can mar the beauty of natural aquatic ecosystems by degrading the water quality, creating distracting disposal sites, inducing nonconforming development, encouraging human access, and by destroying vital elements that contribute to the compositional harmony or unity, visual distinctiveness, or diversity of an area.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), Guidelines to minimize impacts as described in § 230.10(d), water dependency in § 230.10(e), and specific measures described in Subparts D, E, and F, where appropriate, specific measures to minimize impacts on aesthetic values include, but are not limited to:

(1) Selecting discharge sites and following discharge procedures that will prevent or minimize any potential damage to the aesthetically pleasing features of the aquatic site, particularly with respect to water quality.

(2) Following procedures that will restore the disturbed area to its natural condition.

(d) *Special determination.* In addition to the determinations required by § 230.20 and the special determinations required by Subparts E and F, where appropriate, special determinations where aesthetic values in aquatic areas may be affected by the discharge of

dredged or fill material include whether the discharge will change or affect the elements of an aquatic or wetland area which contribute to its aesthetic appeal.

§ 230.64 Amenities.

Amenities derived from a natural aquatic ecosystem, including wetlands, include any environmental feature, trait, or character that contributes to the attractiveness of real estate, or to the successful operation of a business serving the public on its premises. Aquatic resources which are unowned or publicly owned may provide amenities to privately owned property in the vicinity.

(a) *Values.* Persons or institutions claiming amenities of the unowned or publicly owned aquatic ecosystem have monetary investments in property, a portion of which can be realized only because of the existence of unowned but accessible aquatic amenities. The added property value attributable to natural amenities varies with the quality, use, and accessibility of aquatic and wetland areas.

(b) *Possible loss of values.* The discharge of dredged or fill material can adversely affect the particular features, traits, or characters of an aquatic area which make it valuable as an amenity to property owners. Dredge or fill activities which degrade water quality, disrupt natural substrate and vegetational characteristics, deny access to the amenities, or result in changes in odor, air quality, or noise levels may reduce the value of an aquatic area as an amenity to private property.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a), the Guidelines to minimize impacts as described in § 230.10(d), water dependency in § 230.10(e), and specific measures described in Subparts E and F, where appropriate, specific measures to minimize impacts on amenities include, but are not limited to:

(1) Selecting discharge sites which are of lesser value to nearby property owners as natural aquatic or wetland amenities.

(2) Timing the discharge to avoid interference during seasons or periods when the availability and accessibility of aquatic or wetland amenities are most important.

(3) Following discharge procedures that do not disturb features of the aquatic ecosystem which contribute to the value of an aquatic amenity.

(d) *Special determination.* In addition to the determinations required by § 230.20 and the special determinations required by Subparts E and F, where appropriate, special determinations where aquatic amenities may be affected by discharges of dredged or fill material include whether the discharge will change or affect any feature of an aquatic area which contributes to its value as an amenity to property owners.

Subpart H—Habitat Development and Restoration of Water Bodies

§ 230.65 Habitat development and restoration of water bodies.

Habitat development and restoration involves changes in open water and wetlands that minimize adverse effects of proposed changes or that neutralize or reverse the effects of past changes on the ecosystem. Development may produce a new or modified ecological state by displacement of some or all of the existing environmental characteristics. Restoration has the potential to return degraded environments to their former ecological state.

(a) *Values.* Habitat development and restoration can contribute to the maintenance and enhancement of a viable aquatic ecosystem at the discharge site. From an environmental point of view, a project involving discharge of dredged and fill material should be designed and managed to emulate a natural ecosystem. Research, demonstration projects, and full scale implementation have been done in many categories of development and restoration. The U.S. Fish and Wildlife Service has programs to develop and restore habitat. The U.S. Army Engineer Waterways Experiment Station has published guidelines for using dredged material to develop wetland habitat, for establishing marsh vegetation, and for building islands that attract colonies of nesting birds. The EPA has a Clean Lakes program which supplies funds to States and localities to enhance or restore degraded lakes. This may involve dredging nutrient-laden sediments from a lake and ensuring that nutrient inflows to the lake are controlled. Restoration and habitat development techniques can be used to minimize adverse impacts and compensate for destroyed habitat. Restoration and habitat development may also provide secondary benefits such as improved opportunities for outdoor recreation and positive use for dredged materials.

Comment: The development and restoration of viable habitats in water bodies requires planning and construction practices that integrate the new or improved habitat into the existing environment. Planning requires a model or standard constituting a target, the achievement of which is attempted by manipulating design and implementation of the activity. Characteristics of a natural ecosystem in the vicinity of a proposed activity is specified as the model or standard to be used in developing or restoring habitat. Such use of a natural ecosystem is expected to prevent competition among individuals or groups with preconceived ideas of what constitutes acceptable habitat, and ensures that the developed or restored area will be nourished and maintained physically, chemically and biologically by natural processes once established. Some examples of natural ecosystems include, but are not limited to the following: salt marsh, cattail marsh, turtle grass bed, small island, etc.

(b) *Possible loss of values.* Habitat development and restoration, by definition, have environmental enhancement as their initial purpose. Where such projects are not founded on the objectives of maintaining ecosystem function and integrity, some values may be favored to the detriment or loss of others. Human uses of the environmental may not necessarily be considered part of development or restoraton although they may benefit directly from it. The ecosystem affected must be considered in order to achieve the desired result of development and restoration. In the final analysis, selection of the ecosystem to be emulated is of critical importance and a loss of value can occur if the wrong model or an incomplete model is selected. Of equal importance is the planning and management of habitat development and restoration on a case-by-case basis.

(c) *Guidelines to minimize impacts.* In addition to the consideration of alternatives in § 230.10(a) and the guidelines to minimize impact described in § 230.10(d), specific measures to minimize impacts on the aquatic ecosystem by enhancement and restoration projects include but are not limited to:

(1) Selecting the nearest similar natural ecosystem as the model in the implementation of the activity.

Comment: Obviously degraded or significantly less productive habitats may be considered prime candidates for habitat restoration. One viable habitat should not be sacrificed in an attempt to create another, i.e., a productive vegetated shallow water area should not be destroyed in an attempt to create a vegetated wetland in its place.

(2) Using development and restoration techniques that have been demonstrated to be effective in circumstances similar to those under consideration wherever possible.

(3) Where development and restoration techniques proposed for use have not yet advanced to the pilot demonstration or implementation stage, initiate their use on a small scale to allow corrective action if unanticipated adverse impacts occur.

(4) Where Federal funds are spent to clean up waters of the U.S. through dredging, scientifically defensible levels of concentration of pollutants in the return discharge shall be agreed upon with the funding authority in addition to any applicable water quality standards in order to maintain the desired improved water quality.

(5) When a significant ecological change in the aquatic environment is proposed by the discharge of dredged or fill material, the permitting authority should consider the ecosystem that will be lost as well as the environmental benefits of the new system.

Subpart I—General Processes and Procedures

§ 230.70 Advanced identification of dredged material disposal areas.

(a) Consistent with these guidelines and after consultation with EPA, permitting authorities may identify areas which will be considered as:

(1) Possible future disposal sites, including existing disposal sites and non-sensitive areas.

(2) Areas which will not be available for disposal site specification.

(3) Subject to emergency action to limit activities that could cause adverse cumulative or secondary effects to the aquatic ecosystem (see § 230.72).

(b) The identification of any area as a possible future disposal site shall not be deemed to constitute a permit for the discharge of dredged or fill material within such an area or a specification of discharge site, but may be used in evaluating individual or general permit applications.

(c) The appropriate public shall be notified of proposed identification of such areas. A record of areas so identified shall be maintained.

(d) To provide the basis for advanced identification of disposal areas, areas not available for disposal, and areas subject to emergency action, water bodies should be assessed to determine those areas which are of critical ecological concern, those which are of environmental concern those in which cumulative or secondary impacts are predictable, and non-sensitive areas. Those in which cumulative or secondary impacts are predictable, and nonsensitive areas. To facilitate this analysis, water resources management data should be assembled including such data as may be available form the public, other Federal and State agencies, and information from approved Coastal Zone Management Programs and River Basin Plans.

(e) The permitting authority shall maintain a record of the identified areas and a written statement of the basis for identification.

§ 230.71 General or categorical permits.

(a) *Conditions for the issuance of general permits.* General permits for a category of activities involving the discharge of dredged or fill material comply with the guidelines if it is determined by the permitting authority, after evaluation through the process outlined in the Guidelines, that:

(1) The activities in such category are similar in nature and similar in their impact upon water quality and the aquatic and wetland environment;

(2) The activities in such category will have only minimal adverse effects when performed separately; and

(3) The activities in such category will have only minimal cumulative adverse effects on water quality and the aquatic and wetland environment.

(b) *Evaluation process.* To reach the determinations required in paragraph (a) of this section, the permitting authority shall set forth in writing an evaluation of the potential individual and cumulative impacts of the category of activities to be regulated under the general permit.

(1) This evaluation shall be based upon consideration of the prohibitions listed in § 230.10(b) and the factors listed in § 230.10(c), and shall include documented information supporting each factual determination in § 230.20 of the Guidelines;

Comment: General permits are an important means of protecting the open water and wetland environments. Therefore, insofar as possible, general permits should be subjected to a rigorous development and review concerning impact on open water and wetland environments as individual permits. When a general permit is issued, the Guidelines will have been considered in depth, and measures to protect the environment already will have been incorporated. Therefore, when the users of a general permit comply with the conditions in that permit they reasonably can expect to have complied with the pertinent aspects of these Guidelines.

(2) The evaluation shall include a precise description of the activities to be permitted under the general permit, explaining why they are sufficiently similar in nature and in environmental impact to warrant regulation under a single general permit based on Subparts D–G of the Guidelines. Allowable differences between activities which will be regulated under the same general permit shall be specified. In addition, activities otherwise similar in nature may differ in environmental impact due to their location in or near ecologically sensitive areas, areas with unique chemical or physical characteristics or concerns (e.g., areas containing concentrations of toxic substances), and areas regulated for specific human uses or by specific land or water management plans (e.g., areas regulated under an approved Coastal Zone Management Plan). For these reasons, if there are specific geographic areas and water bodies within the purview of a proposed general permit, which are more appropriately regulated by individual permit due to the consideration cited in this paragraph, they shall be clearly delineated in the assessment and identified in the permit;

(3) To predict cumulative effects, the assessment shall include the number of individual discharge activities likely to be regulated under a general permit until its expiration, including repetitions of individual discharge activities.

§ 230.72 Cumulative and secondary impacts on the aquatic ecosystem.

(a) Cumulative impacts are changes in an aquatic ecosystem that are attributable to the collective effect of a number of individual discharges of dredged or fill material. Secondary impacts are changes in the aquatic ecosystem that are attributable to the purpose of the discharge of a dredged material disposal site or a fill, and not to the actual placement or dredged or fill material. Some examples of secondary impacts on aquatic ecosystem are fluctuating water levels in an impoundment and downstream associated with operation of a dam, septic tank leaching and surface runoff from residential or commercial developments on fill, leachate and runoff from a sanitary landfill located in waters of the U.S., and development of real estate improvements on a dredged material disposal site in a wetland in a manner that results in pollution of adjacent wetlands or other waters through runoff or other effects.

(b) Both cumulative and secondary impacts on the aquatic ecosystem which could not occur without the discharge of dredged or fill material in waters of the U.S., can have adverse effect on the chemical, phyiscal, and biological integrity of the Nation's waters. Cumulative and secondary effects attributable to the discharge of dredged or fill material in waters of the U.S.

should be predicted to a reasonable and practical extent.

(c) Information about cumulative effects on aquatic ecosystems shall be taken into consideration by section 404 permitting authorities. Information about secondary impacts on aquatic ecosystems shall be considered prior to the time final section 404 action is taken by permitting authorities, and when actions under any other section of the Act such as 301, 302, or under any other Acts are taken that involve section 404. Activities on fast land created by the discharged of dredged or fill material in waters of the U.S. are considered to be in waters of the U.S. for purposes of these Guidelines.

(d) The permitting authority or other responsible Federal or State authority shall collect information and solicit information from other sources about cumulative and secondary impacts on the aquatic ecosystem. This information shall be considered and documented at the time of inter- and intra-agency reviews leading to a decision concerning a section 404 activity, section 404 Public Notices and Public Hearings, and EIS preparation involving section 404 considerations.

Dated: September 5, 1979.

Douglas M. Costle,

Administrator.

[FR Doc. 79-28792 Filed 9-17-79; 8:45 am]

BILLING CODE 6560-01-M

federal register

Tuesday
September 18, 1979

Part IV

Department of the Interior

Bureau of Land Management

Federal Installations; Implementation of Section 3(e) of the Alaska Native Claims Settlement Act

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 2600]

Federal Installations; Implementation of Section 3(e) of the Alaska Native Claims Settlement Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The proposed rulemaking will implement the procedures to be used to carry out the provisions of section 3(e) of the Alaska Native Claims Settlement Act. The procedure will be used to determine which lands held by Federal agencies were in actual use during the time prescribed in the Act.

DATES: Comments by November 19, 1979.

ADDRESS: Send comments to: Director (650), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address from 7:45 a.m. to 4:15 p.m. on regular work days (Monday through Friday).

FOR FURTHER INFORMATION, CONTACT:

Beaumont McClure (202) 343–6511; or
Robert C. Bruce (202) 343–8735; or
Robert Arnold, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513, (907) 271–5768.

SUPPLEMENTARY INFORMATION: The proposed rulemaking establishes the procedure which will be used by the Department of the Interior in making the determination as to which lands held by Federal agencies were in actual use during the time period set in the Alaska Native Claims Settlement Act for Native selections. Lands determined to be in actual use are not available for Native selection under the provisions of section 11(a)(1) of the Alaska Native Claims Settlement Act. The term "actually used" is used in identifying the smallest amount of land, improved or unimproved, in actual use by a Federal agency on December 18, 1971, and needed by the agency to carry out its mission.

This proposed standard would include four categories of land used by Federal agencies. The first group would be land used as a portion of or in support of the agency program. Improved land on which agency buildings are located is an example. The second category, land for reasonable buffer zones, would encompass areas needed for necessary safety measures, maintenance, erosion prevention, noise protection, and drainage purposes. The third category would be land used by a non-governmental entity or private person when the use has a direct and necessary connection to the mission of the Federal agency. An example is a public parking lot at a Federal installation. Land leased by the Alaska Railroad to manufacturers or shippers with direct access to the mainline tracks would be actual use in connection with the railroad if the land were leased on December 18, 1971, and continued to be leased to the end of the appropriate selection period. Log dumps in actual use on December 18, 1971, could be reserved to the Forest Service under this criterion. Land used on December 18, 1971, and continued to be used as a source of gravel or other materials used by the Federal installation directly in connection with its operation is the fourth category. It would not include land where the gravel or other material is sold merely to produce revenue. The Secretary of the Interior will determine the extent of a gravel pit based on an evaluation of such factors as the agency's previous history of use of the site, the extent of the area disturbed and the projected prudent and reasonable needs of the agency for the material at that location in the immediate future. The actual use of areas from which material is extracted includes a reasonable extension of present use into areas where the material is available, but does not include past use of areas from which the material has been exhausted.

The proposed rulemaking also would provide that land from which the agency derives revenues through a lease, permit, or other means will not be considered "actually used" unless the lease or other means has some direct, necessary, and substantial relationship to the mission of the agency. Land which the Alaska Railroad leases to third parties who do not use the railroad or its barges and which is not located near the railroad right-of-way would be an example.

Public comments are specifically requested on whether the use of the term "actually used" in the definition should include land assets held by an agency as of December 18, 1971, to meet reasonable and prudent future needs in implementing its mission as established by law.

The proposed rulemaking would place the burden of proof on the agencies to demonstrate to the Secretary's satisfaction what land is in actual use. The United States will generally retain full fee title in the land, unless the Secretary determines that an easement would afford sufficient protection, that an easement is customary for the particular use, and that the granting of an easement would further the objectives of the Alaska Native Claims Settlement Act. The proposed rulemaking would provide that Native corporations shall be consulted for their views as to whether an easement or full fee title should be held by the Federal agency because land conveyed subject to an easement will be charged against the Native corporations' entitlements under section 17(b) of the Act.

The proposed rulemaking would place on the Federal agency the burden of proof of what land is being actually used. The procedure set out in the rulemaking will enable Federal agencies holding land in Alaska to provide complete and accurate information so that the Bureau of Land Management can make an informed judgment as to what land is available for Native selection. In the case of incomplete initial information from the agency, the procedures would provide that the agency will be given written notice and 90 days to submit the necessary information. Unless adequate information is received, all of the agency's lands which have been selected would be conveyed to the Native corporations. The State Director, Bureau of Land Management, Alaska, would have the discretion to grant time extensions for an agency which is supplying additional information. Any decisions reached would be final unless appealed to the Alaska Native Claims Appeal Board as provided in 43 CFR Part 4, subpart J. The Secretary of the Interior may take personal jurisdiction over the matter in accordance with 43 CFR Part 4.5. The Secretary is authorized to take jurisdiction at any stage of any case before any employees of the Department, including any administrative law judge or board. The Secretary also has authority to review any decision made by Department employees or to direct any such employees to reconsider a decision. The proposed rulemaking provides that any other cabinet level official may request in writing that the Secretary take personal jurisdiction over the disputed determination made pursuant to section 3(e)(1) of the Act. The Secretary must respond to that official in writing indicating his decision regarding Secretarial jurisdiction and the reasons for it. If the Secretary takes jurisdiction, he will communicate his substantive decision and the reasons for it in writing to the requesting agency and any other parties to the appeal.

The proposed rulemaking has been drafted after consultation with various

Native groups, the State of Alaska, the Alaska Federation of Natives' Land Managers Association, the Alaska Railroad, the Joint Federal-State Land Use Planning Commission for Alaska (LUPC), Office of Management and Budget, and other interested parties. Preliminary written comments have been received from Chugach Natives, Inc., Cook Inlet Region, Inc. (CIRI), Doyon, Limited, Eklutna, Yak-Tat Kwaan, Inc., and the Joint Federal-State Land Use Planning Commission and will be made part of the administrative record available for public review. Comments are solicited from any interested parties, including any Federal agencies holding land in Alaska.

The principal author of this proposed rulemaking is Michael Hengel, Bureau of Land Management, assisted by Susan Shands of the Office of the Solicitor, Department of the Interior.

It is hereby determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a significant regulatory action requiring the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of the Alaska Native Claims Settlement Act of 1971, as amended, (43 U.S.C. 1601 et seq.), it is proposed to add a new Subpart 2655 to Part 2650, Group 2600, Subchapter B, Chapter II, Title 43 of the Code of Federal Regulations as set forth below:

Subpart 2655—Federal Installations

§ 2655.0-3 Authority.

Section 3(e)(1) of the act provides that the Secretary shall determine the smallest practicable tract enclosing land actually used in connection with the administration of certain Federal installations in Alaska.

§ 2655.0-5 Definitions.

As used in this subpart, the term "the smallest practicable tract enclosing land actually used in connection with the administration of any Federal installation" means the least amount of public lands, improved or unimproved, actually used by a Federal agency on December 18, 1971, and needed by the agency to continue to carry out its mission as established by statute.

(a) Lands actually used by a Federal agency include, but are not limited to:

(1) Lands necessarily used for prudent and reasonable action in support of a Federal agency program on December 18, 1971; or

(2) Lands necessary to provide a reasonable buffer zone with respect to adjacent properties; or

(3) Lands used by a non-governmental entity or private person for a use that has a direct and necessary connection to the mission of the Federal agency; or

(4) Lands used on December 18, 1971, and continued in use as a source of gravel or other materials used by the Federal installation directly in connection with its operation, but not where the gravel or other material is sold to produce revenue. The extent of a gravel pit that may be reserved under this criterion shall be determined based on an evaluation of such factors as the agency's previous history of use of the site, the extent of the area disturbed, and the projected prudent and reasonable needs of the agency for the material at that location in the immediate future. The actual use of areas from which material is extracted includes a reasonable extension, as determined by the Director, of present use into areas where the material is available, but does not include past use of areas from which the material has been exhausted.

(b) Lands shall not be considered actually used where they are used solely by the agency to derive revenue from them through a lease, permit, or other means. Where the lease or other means has some direct, necessary and substantial relationship to the mission of the agency, the fact that it incidentally provides revenue shall not make the lands to which the lease applies public lands available for Native selection.

§ 2655.1 Lands subject to determination.

Applicability of determinations: (a) Lands withdrawn by section 11(a)(1) or 16(a) of the act and subsequently selected by a village or regional corporation under section 12 or 16 are subject to a determination made under this subpart.

(b) Lands in the National Park Systems, lands withdrawn or reserved for national defense purposes, and those former Indian Reserves elected under section 19 of the act are not subject to a determination under section 3(e)(1) of the act or this subpart. Lands withdrawn under section 11(a)(3) or 14(h) do not include lands withdrawn or otherwise appropriated by a Federal agency and, therefore are not subject to a determination under section 3(e)(1) of the act or this subpart.

(c) Lands shall be subject to conveyance under section 3(e) of the act and this subpart only if it can be determined that they were public lands during the selection periods as follows:

(1) The period for selections under sections 12(a) and 16(b) of the act was December 18, 1971, through December 18, 1974.

(2) The period for selections under sections 12(b) and (c) of the act was December 18, 1971, through December 18, 1975.

(3) The period for selections for Cook Inlet Region, Inc., has been extended under Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, section 12 of the Act of January 2, 1976, as amended by section 3 of the Act of October 4, 1976, as further amended by section 3(a) of the Act of November 15, 1977 (43 U.S.C. 1611), as further amended by the Act of August 14, 1979, until July 15, 1980.

§ 2655.2 Determination procedures.

The Director, Bureau of Land Management, shall make the determination as to the smallest practicable tract. Where sufficient information has not already been provided, the Director shall issue written notice to the holding agency requesting information to be used in making the determination.

(a) The information to be provided by the holding agency shall include the following:

(1) The function and scope of the installation;

(2) A plottable legal description of the lands actually used;

(3) A list of structures or other alterations to the character of the lands and their function and date of construction;

(4) A description of the use and function of any unaltered lands; and,

(5) A list of any rights, interests or permitted uses the agency has granted to others, including other Federal agencies.

(b) If available, site plans, drawings and annotated aerial photographs delineating the boundaries of the installation and locations of the areas acutally used as of December 18, 1971, shall be included.

(c) A narrative explanation stating when Federal use of each area began; what use was being made of the lands as of December 18, 1971; whether any action has taken place between December 18, 1971, and the end of the appropriate selection period that would reduce the area needed, and the date this action occurred.

(1) The burden of proof of actual use in on the Federal agency claiming it.

(2) Where adequate showing of acutal use has been made, the determination

shall be in favor of the agency retaining full fee title to the lands. However, an easement may be reserved in lieu of full fee title where the Director determines that an easement affords sufficient protection, that an easement is customary for the particular use and that it would further the objectives of the act. Since lands conveyed subject to an easement shall be charged against the Native corporations' entitlements, the Native corporations shall be consulted for their views.

(d) The written notice shall provide that the information requested be furnished within 90 days from the receipt of the notice. A determination of the smallest practicable tracts shall be made based on the information available in the case file. Lacking adequate information to the contrary, all lands selected shall be transferred to the selecting Native corporation.

(e) If any portion of the lands which was used on December 18, 1971, is determined by the Director to be no longer in actual use by the original agency or any other agency which is continuing the same function at the end of the appropriate selection period, that portion shall be public lands available for transfer to the selecting Native corporation.

(f) Upon adequate and justifiable showing by the holding agency, the State Director, Bureau of Land Management, Alaska, may grant time extensions up to 90 days to provide the information requested in this subpart. Such requests shall be received by the State Director within 90 days of receipt of the notice by the holding agency and such request shall provide a complete and satisfactory explanation as to the need for an extension.

(g) The Director shall also request comments relating to the identification of lands in the installation from the selecting Native corporation.

(h) The results of the determination shall be incorporated into a Decision to Issue Conveyance to the Native corporation making the selection and a conveyance document shall be issued.

§ 2655.3 Adverse decisions.

(a) Any decision adverse to the holding agency or Native corporation shall become final unless appealed to the Alaska Native Claims Appeal Board in accordance with 43 CFR Part 4, subpart J. If a decision is appealed, the Secretary of the Interior may take personal jurisdiction over the matter in accordance with 43 CFR Part 4.5. In the case of appeals from affected Federal agencies, the Secretary may take jurisdiction only upon written request from the appropriate cabinet level official. The requesting official and any affected Native corporation shall be notified in writing of the Secretary's decision regarding the request for Secretarial jurisdiction and the reasons therefor. In the event the Secretary takes jurisdiction, his substantive decision and the reasons for it shall be communicated in writing to the requesting agency and any other parties to the appeal.

(b) When an appeal to a decision to issue conveyance is made by a holding agency and the basis of that appeal is that the Bureau of Land Management neglected to make a determination pursuant to section 3(e)(1) of the Act for property which was the subject of that decision to issue conveyance, then the matter shall be remanded by the Alaska Native Claims Appeal Board to the Bureau of Land Management for a determination pusuant to section 3(e)(1) of the Act.

September 12, 1979.

Guy R. Martin,

Assistant Secretary of the Interior.

[FR Doc. 79-28812 Filed 9-17-79; 8:45 am]

BILLING CODE 4310-84-M

federal register

Tuesday
September 18, 1979

Part V

Securities and Exchange Commission

Exemption of Limited Offers and Sales by Corporate Issuers; Proposed Amendments to Rules and Forms

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 230 and 239]

[Release No. 33-6121; File No. S7-800]

Exemption of Limiting Offers and Sales by Corporate Issuers

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments to rules and forms.

SUMMARY: The Commission is proposing for comment a small issue exemptive rule under Section 3(b) of the Securities Act of 1933 which would allow certain corporate issuers to offer and sell up to $2,000,000 per issue of their securities to an unlimited number of institutional-type purchasers and to thirty-five other purchasers. As proposed, an issuer making an offer pursuant to the rule would be required to furnish certain prospective investors with specified information and to file a notice of sale after a sale of securities pursuant to the rule has been made.

DATE: Comments must be received on or before November 16, 1979.

ADDRESSES: All communications on this matter should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7-800 and will be available for public inspection.

FOR FURTHER INFORMATION CONTRACT: Paul A. Belvin, Office of Small Business Policy, Division of Corporation Finance, (202) 272-2644, or Mary Margaret W. Hammond, (202) 272-2588, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is publishing for public comment Rule 242, Form 242, and a corresponding amendment to Rule 144 (17 CFR 230.144) under the Securities Act of 1933 (the "Securities Act") (15 U.S.C. 77a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)). Rule 144 sets forth guidelines relating to the resale of certain securities.

If adopted, Rule 242 would allow certain domestic and Canadian corporate issuers to offer and sell up to $2 million per issue of their securities without registration to an unlimited number of accredited persons, defined to include certain institutions and persons buying large dollar amounts of securities, and to thirty-five other purchasers provided such issuers furnish certain of these purchasers with generally the same king of information specified in Part I of Form S-18 (17 CFR 239.28) to the extent material and meet certain other conditions. In computing the $2 million limit per issue, the Rule requires that sales pursuant to Rule 242 be aggregated with sales pursuant to Rule 240 (17 CFR 230.240) and Regulation A (17 CFR 230.251-264) in the six months preceding the proposed Rule 242 issue.

The proposed exemption from registration would be in the nature of an experiment. The Commission would monitor closely the use of Rule 242 for an appropriate period to determine whether the Rule has functioned as an effective means for issuers, particularly small issuers, to raise limited amounts of capital through unregistered offerings to the public consistent with the protection of investors. After such period, the Commission would decide whether the Rule ought to be retained and, if so, whether the conditions for its availablility ought to be revised.

This release contains a general discussion of the background, purpose and effect of the proposed Rule which will assist in a better understanding of its provisions. A brief synopsis of the major provisions of the proposed Rule is also included.

Background

The Commission has for some time been examining steps which might be taken to facilitate capital formation by small buinesses. In this regard the Commission held public hearings in April and May of 1978 for the purpose of determining the extent to which the burdens imposed on small businesses may be alleviated consistent with the protection of investors. The hearings concerned the effects of the Commission's rules on the ability of small businesses to raise capital and the impact on small businesses of disclosure requirements under the federal securities laws.[1]

A study of the record developed at the hearings indicates that most of the problems faced by small businesses result from factors outside the scope of the federal securities laws. The witnesses did state, however, that a number of requirements under the federal securities laws are not justified as applied to small businesses. In response to these concerns the Commission has undertaken a number of significant rule and form amendments which are designed to ease the impact of the federal securities laws on small business capital formation consistent with the protection of investors.[2] The small issue exemptive rule proposed today represents another step in this ongoing process.

Discussion

The Commission's small business hearings were concerned in part with the operation of the exemptions from registration with respect to small issuers. Commentators at these hearings indicated that the existing exemptive rules, particularly Rules 146 (17 CFR 230.146) and 240 were not particularly helpful to small businesses.

Rule 146 was designed to provide objective standards upon which issuers could rely in raising capital pursuant to the exemption from registration contained in section 4(2) of the Securities Act (15 U.S.C. 77d(2)) for transactions not involving any public offering. However, comment at the hearings consistently indicated that the provisions of Rule 146 presented compliance problems for smaller issuers which result in an uncertainty as to whether the exemption is available. For example, it was noted that the Rule requires issuers to make a subjective determination concerning the sophistication of each offeree and each purchaser.[3]

In addition, it was felt that the informational requirements of Rule 146(e) created uncertainty by requiring that issuers which do not file periodic reports with the Commission pursuant to the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq.,

[1] These hearings were recommended by the Advisory Committee on Corporate Disclosure to the SEC, Committee Print 95-29, House Committee on Interstate and Foreign Commerce, 95th Cong., 1st Sess. (1977) at 511. A summary of the record of the processing is available for public inspection at the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. 20549, (202) 523-5360. Refer to File No. S7-734.

[2] A summary of these amendments is set forth in Securities Act Release No. 6049 (April 3, 1979) (44 FR 21562).

[3] Rule 146(d)(1) requires that an issuer have reasonable grounds to believe and shall believe:

(1) Immediately prior to making any offer, either:

(i) That the offeree has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment, or

(ii) That the offeree is a person who is able to bear the economic risks of investment; and

(2) Immediately prior to making any sale, after making reasonable inquiry, either:

(i) That the offeree has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment, or

(ii) That the offeree and his offeree representative(s) together have such knowledge and experience in financial and business matters that they are capable of evaluating the merits and risks of the prospective investment and that the offeree is able to bear the economic risk of the investment.

as amended by Pub. L. 94–29 (June 4, 1975)) furnish their offerees with substantially the same information "as would be required to be included" in a registration statement on specified forms or, if the offering does not exceed $1,500,000, the same information "as required to be included" by Schedule I of Regulation A. Some commentators believed that this particular formulation might in effect compel compliance with current staff guidelines and policies regarding the interpretation of the forms' and schedules' requirements and that issuers will not be sure of technical compliance with the information requirement of the Rule. A similar concern is that subsection (e)(ii)(b)(1) of Rule 146, which addresses the omissions of immaterial information, may be so narrowly drafted as to render likely a technical violation.

Rule 240, although not containing offeree or purchaser sophistication standards or a mandated disclosure requirement, was also criticized. The commentators felt that that Rule was too restrictive to be a useful means of capital formation by small businesses since (1) it can only be utilized to raise $100,000 in any 12-month period and (2) it is available only if the issuer has less than 100 beneficial owners of its securities. In addition, the viability of Rule 240 was further questioned in view of the rule's prohibition against the payment of commissions for the solicitation of purchasers of the issuer's securities.

Rule 242 is intended to facilitate small business capital formation in a manner consistent with the protection of investors by addressing the problems encountered by those issuers seeking to utilize the exemptive provisions.

As proposed, the Rule would allow "qualified issuers," defined to include certain corporate issuers, to sell up to $2,000,000 per issue of their securities in any six-month period to an unlimited number of "accredited persons," defined as certain specified institutions and purchasers of $100,000 or more of securities and to thirty-five other purchasers. If sales are made only to accredited persons, the Rule does not require that the issuer furnish information to them, relying on the ability of such persons to ask for and obtain the information they feel is necessary to their making an informed investment decision. If sales are made to be accredited and non-accredited persons, or only to non-accredited persons, the Rule requires that certain specified information is to be furnished to them by the issuer during the transaction and prior to sale. In addition, any information obtained in writing by an accredited person from the issuer prior to the date of purchase by a non-accredited person must be furnished to such non-accredited person. No general advertising or solicitation would be permitted. Securities sold pursuant to Rule 242 are deemed to have the same status as it they had been acquired in a transaction pursuant to section 4(2) and could not be resold without registration or an exemption therefrom.

A provision somewhat similar to provisions in both Rules 146 and 240 would require the issuer to file a notice with the Commission at its principal office in Washington, D.C. and at the appropriate regional office ten days after the end of the month in which the initial sale in reliance on the Rule is made. If additional sales are made in reliance on the Rule, further notices which disclose facts which have changed since the filing of the original notice need only be filed every six months. The notice form calls for certain data regarding the issuer which is necessary for Commission monitoring and rulemaking purposes.

The Commission believes that Rule 242, if adopted, would serve to reduce the currently perceived uncertainty regarding the use of the exemptive provisions. Specifically, Rule 242, by reference to Part I of Form S–18, specifies the kind of information which must be furnished during the course of the transaction and adds a materiality standard to that requirement, rather than requiring all information which would be required to be included in a registration statement on, e.g., Form S–1 or in an offering circular pursuant to Regulation A. Also, the rule does not require the issuer to make any subjective determination regarding the sophistication or financial condition of offerees and purchasers. Purchasers need only be examined to determine whether they meet the objective criteria set forth for purposes of computing the thirty-five purchaser limit for non-accredited purchasers.

Synopsis

A section-by-section discussion of the proposed Rule follows; however, attention is directed to the proposed Rule itself for a complete understanding.

Rule 242

Preliminary Notes. The preliminary notes generally follow those found in Rules 146 and 240 and refer to other securities law considerations which are involved in the use of Rule 242. Preliminary Note 6, in particular, advises the user that the statutory exemption from registration which the Rule provides relates to exempt "issues" of securities. An "issue" is not defined either in Section 3(b) of the Securities Act or in the Rule. The Note provides guidance to the user as to what factors the Division of Corporation Finance has previously noted should be considered in determining whether offers and sales should be integrated and, hence, considered part of a single "issue."

Definitions. Rule 242(a) sets forth definitions of five terms used in the Rule.

Accredited Person. The definition of Accredited person is similar to provisions found in state securities laws,[3] in the ALI Federal Securities Code,[4] and in proposed legislation.[5] All of those entities included in subparagraph (i) of the definition are either regulated financial institutions or entities advised by such institutions.

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[3] The uniform Securities Act, as amended in 1958, provides an exemption for "any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity." 7A U.L.A. Business & Fin. Laws 641 (1978).

[4] ALI Fed. Sec. Code § 242(b) and § 275 (September 14, 1978). Section 242(b) would exempt offers and sales to "institutional investors" which is defined in § 275 to include:

(a) A bank, insurance company, or registered investment company, a fund, trust or other account with respect to which a bank or insurance company has investment discretion, or a person who controls any such person, except to the extent that the commission provides other wise by rule with respect to any such class of persons on the basis of such factors as financial sophistication, net worth, and the amount of assets under investment management, or

(b) Any other person of a class that the Commission designates by rule on the basis of such factors.

[5] The "Small Business Investment Incentive Act of 1979," H.R. 3991, 96th Cong., 1st Sess. (1979), proposes to amend the Securities Act in a manner similar to Rule 242 to authorize issuers to sell certain securities to "accredited investors" without filing a registration statement. H.R. 3991 specifically defines "accredited investors" to include:

(A) A bank, insurance company, registered investment company, small business investment company licensed under the Small Business Investment Company Act of 1958, or person described in the last clause of section 3(c)(3) of the Investment Company Act of 1940, a fund, trust, or other account with respect to which a bank or insurance company exercises investment discretion, or a person who controls or is controlled by any such person, (B) any person who, on the basis of such factors as financial sophistication, net worth, knowledge and experience in financial and business matters, or amount of assets under management, qualifies as an accredited investor under rules and regulations which the Commission shall prescribe, and (C) any other person who does not qualify as an accredited investor under such rules and regulations but who relies upon the investment advice of a person who does so qualify. As used in this paragraph, the term "investment discretion" has the meaning been such term in section 3(a)(35) of the Securities Exchange Act of 1934.

Subparagraph (ii) of the definition includes persons who buy at least $100,000 of the issuer's securities sold in reliance on the Rule and pay for such securities with cash or a cash-equivalent which is specifically defined to include certain obligations to pay or the cancellation of debt. This part of the definition is similar to Rule 146(g)(2)(d). Rule 146 contains a limit on the number of purchasers identical to that found in paragraph (e) of Rule 242. In calculating the number of purchasers for purposes of determining whether the ceiling has been reached, Rule 146(g)(2)(d) exempts persons who buy at least $150,000 of securities for cash. Rule 242 follows this provision but lowers the amount which must be purchased to $100,000.

It should be noted that at the time of the sale of the securities an issuer must have reasonable grounds for believing that those purchasers whom it does not count for purposes of paragraph (e) of the Rule or who do not receive the information specified in paragraph (f) of the Rule meet the definition of "accredited person" in paragraph (a)(1).

The Commission specifically invites comments on the adequacy of this definition. The Commission is interested in determining (1) whether the concept represented by the definition is appropriate; (2) whether the entities currently specified in paragraph (a)(1)(i) should be included; (3) whether other types of entities should be included; and (4) whether the inclusion of purchasers of $100,000 of securities is appropriate.

Affiliate and Predecessor. The definition of "affiliate" in subparagraph (a)(2) of the Rule is derived from Rules 146 and 240. "Predecessor", as defined in subparagraph (a)(3), is similarly defined under Regulation A.

Qualified Issuer. Subparagraph (a)(4) provides that the Rule is available only to a domestic or Canadian corporate issuer. It is also not available to an issuer which is an investment company, or which is engaged or intends to engage in significant oil, gas, or mining operations. In view of the experimental nature of the Rule, the Commission believes that the initial limitation on the issuers able to utilize the Rule is appropriate. The restrictions on the issuers eligible to use the Rule are generally consistent with similar restrictions recently included in Form S-18.[6] If the rule is adopted, the Commission will review its use after an appropriate period of time to determine whether its availability should be broadened.

Securities of the Issuer. This term is defined in subparagraph (a)(5) to include within the securities offered and sold by the issuer those securities issued by affiliates who became affiliates in the past year and by predecessors. This type of definitional provision is similar to the one found in Regulation A. The purpose of such a provision is to prevent an issuer from setting up numerous corporate entities which it controls and causing each of these entities to make offerings pursuant to Rule 242, thereby avoiding the dollar ceiling limit on the Rule. The Commission specifically invites comments as to whether the definition is adequate to prevent abuses of the exemption provided by the Rule.

Conditions to be Met. Rule 242(b) points out that, in order for a qualifed issuer to have a valid exemption for each issue of its securities offered and sold pursuant to Rule 242, all the conditions in the Rule must be satisfied. "Issue" is not defined in Section 3(b) or in Rule 242. Determination of whether separate sales of securities are part of the same issue and are thus deemed to be integrated depends upon a consideration of traditional integration factors concerning the methods of sale and distribution employed to effect the offerings and the disposition of the proceeds. In order to assist the issuer to determine which offers and sales constitute parts of a single issue, paragraph (b) contains a safe harbor from integration. This safe harbor is fashioned after a similar concept contained in Rule 146(b)(1) and provides that any sales of the issuer's securities more than six-months prior to a Rule 242 offer or sale and any offers and sales after the six-month period following a Rule 242 offer or sale will not be integrated with the Rule 242 issue. However, normal integration principles will apply to any such sales outside the two six-month periods if the issuer makes an offer or sale of securities of the same or similar class, other than offers or sales pursuant to Regulation A, within either of these six-month periods. Rule 146 differs in one respect from this section of Rule 242 in that it operates in such a manner that the safe harbor from integration is removed even if offers or sales of securities of a similar class are made pursuant to Regulation A within six months of the Rule 146 offering.

The Commission invites suggestions as to the viability of using other alternatives to this safe harbor approach which would not be overly restrictive but would retain the integration concept. One possible alternative would be to eliminate the proviso regarding sales within the six month periods so that the safe harbor would be absolute. The Commission is interested in receiving comments on the effects of such an approach on the integration concept as a whole and with respect to the proposed Rule.

Limitation on Aggregate Offering of Each Issue. Paragraph (c) limits the amount of each issue of securities sold pursuant to the Rule to the amount specified in Section 3(b) (presently $2,000,000).

Solely for purposes of calculating this aggregate dollar limit, an issuer must include the aggregate gross proceeds from all other securities sold in reliance on any Section 3(b) exemption, such as sales pursuant to other Rule 242 transactions or in reliance upon Rule 240 and Regulation A, during the six-month period prior to the proposed sale pursuant to the Rule.

The offering price ceiling calculation in Rule 242 differs from other exemptions pursuant to Section 3(b) in that the ceiling is computed on a six-month rather than a twelve-month basis. The Commission invites comments as to whether the ceiling computation should be revised to allow sales of only up to $2 million over a twelve-month period. Alternatively, the Commission requests comments as to whether the six-month period for calculating the $2,000,000 limit should be retained but a provision be added limiting the number of non-accredited purchasers of securities sold pursuant to Rule 242 to thirty-five in a twelve-month period.

The Commission further invites comments on the advisability of exempting employee stock option offerings made pursuant to Regulation A from this dollar ceiling limit. Also, the Commission specifically requests comments on whether Regulation A should be amended to exclude sales made in reliance on Rule 242 from the calculation of the aggregate offering price for purposes of that Regulation.

Limitation on Manner of Offering. Paragraph (d) of the proposed Rule would prevent general advertising of offers made pursuant to the Rule. This provision is in accordance with similar provisions found in Rules 146 and 240. Commentators are referred to recent staff interpretations of identical language in the Rule 146 context indicating certain forms of solicitation which are not deemed to be "general solicitation or general advertising"

[6] Securities Act Release No. 6049 (April 3, 1979) (44 FR 21562). In addition, the Commission believes it is appropriate to exclude companies engaged in significant oil and gas operations from use of the proposed Rule at this time because of the staff's current study of oil and gas disclosure requirements.

prohibited by paragraph (d) of the proposed Rule.[7]

Limitation on Number of Purchasers. In a manner similar to Rule 146(g), paragraph (e) of Rule 242 requires that the issuer have reasonable grounds for believing that there are not more than thirty-five non-accredited purchasers of each issue of its securities pursuant to Rule 242. The calculation of the number of purchasers follows that method set forth in Rule 146(g)(2). Accredited persons are specifically excluded from the ceiling by paragraph (e)(2)(i)(D) of the Rule.

Furnishing of Information. Paragraph (f) of the Rule specifies the information which must be given in writing to non-accredited purchasers of the securities of the issuer during the transaction and prior to sale. With the exception that only one year's certified financial statements must be prepared, the issuer must furnish the same kind of information specified in Part I of Form S–18 to the extent material to an understanding of the issuer, its business and the securities being offered. Failure to include information required by any other registration forms or guides, or staff interpretations relating to the informational requirements in registered offerings made pursuant to the Securities Act will not by itself result in loss of the Rule's availability. Issuers are reminded, however, of the applicability of the antifraud provisions of the federal securities laws and of the civil liability provisions of Section 12(2) of the Securities Act.

The reference in the proposed rule to the furnishing of the same kind of information specified in Part I of Form S–18 to the extent material is intended to provide a guideline to issuers while at the same time alleviating concerns regarding a technical violation of Section 5 of the Securities Act (15 U.S.C. 77e) for the omission of information called for by Form S–18 or staff interpretations when such information is not material to the particular issuer and offering involved. The Commission specifically invites comments as to whether this approach provides greater certainty as to the availability of the exemption than corresonding provisions in Rule 146 or whether it would be preferable to use the phrase "to the extent applicable" rather than "to the extent material".

If accredited persons are involved in the same transaction they too must receive this written information and, further, if accredited persons receive other information from the issuer in addition to that specified in paragraph (f), non-accredited persons involved in the same transaction must be furnished such additional information.

If the issuer files reports pursuant to Sections 13 or 15(d) of the Exchange Act, the informational requirements of the Rule may be satisfied by furnishing purchasers with the issuer's most recent annual report on Form 10–K, definitive proxy statement, and any other reports filed since the filing of the Form 10–K, except that the information required by Items 1, 2, and 3 of Part I of Form S–18, if applicable, should also be provided. These items deal with specific information about the offering and the use of proceeds.

The informational requirement specifies providing the same kind of information required in Part I of Form S–18, with one difference. In Form S–18, certified financial statements for the two most recent fiscal years prepared in accordance with generally accepted accounting principles and practices must be furnished. However, for purposes of Rule 242, only financial statements for the most recent fiscal year must be certified. Although less than that imposed by registration pursuant to Form S–18 this requirement is greater than that found in Regulation A.[8] The Commission invites comments as to the appropriateness of the narrative informational requirements and the requirement as to one year certified financial statements in the context of a Rule 242 offering.

It should be noted that in addition to the narrative and financial information required to be disclosed to investors pursuant to the proposed Rule, subparagraph (f)(3) requires that an issuer give prospective investors an opportunity to ask questions and receive answers from the issuer. This provision is similar to that included in Rule 146(e)(2).

Unlike the requirements of Regulation A, Rule 242, as proposed, involves no staff review of any information circular or other material used by the issuer in conducting the offering. The proposed Rule also does not require that such information be place on file with the Commission. The Commission specifically requests comments as to whether undue burdens would be imposed on issuers if Rule 242 were to require that the information called for by paragraph (f)(1) which is furnished to non-accredited persons, and to accredited persons involved in the same transaction, be filed with the Commission after the completion of the offering for the purpose of monitoring the quality of the disclosure being made in Rule 242 offerings.

Limitation on Resale. Paragraph (g) of the Rule indicates that resales of securities purchased pursuant to the Rule would have to be made pursuant to an effective registration statement or pursuant to a valid exemption from registration. In this regard, the Commission is also proposing to include Rule 242 securities within the definition of "restricted securities" in Rule 144 so that resales may take place pursuant to the provisions of that rule.

Filing of Notice of Sales. An important purpose of the notice requirement in paragraph (h) is to collect empirical data which will provide a basis for further action by the Commission either in terms of amending existing rules and regulations or proposing new ones. The Form is designed to enable an issuer to respond to most questions by circling the appropriate range category. It is contemplated that a response to Item III D, which requires a brief description of the issuer's business, would consist only of two or three sentences.

The Commission is interested in receiving comments as to whether the information required by the proposed form would be unduly burdensome to small issuers and whether any further data or different types of data ought to be requested by the Form.

Ten days after the end of the month in which the initial sale of an offering pursuant to Rule 242 occurs, three copies of a notice must be filed or the exemption provided by the Rule is lost. However, issuers should note that subsequent notices need only report information in response to Part IV of the Form and any material changes in answers previously made to Parts I–III. These subsequent notices are only required to be filed every six months if additional sales in reliance on the rule are made.

The proposed Rule requires that Form 242 be initially filed ten days after the end of the month in which the first sale pursuant to the Rule is made. The Commission requests comments on alternative timing requirements such as requiring that the Form be filed at the time of the first sale, similarly to Rule 146(i), or ten days after such sale.

Advance Notice. The Commission invites comment as to whether Forms 146 and 240 should be amended consistent with proposed Form 242.

[7] See, e.g., Letter re: A. A. Ajax Company (January 15, 1979); Letter to Arthur M. Borden, Esquire (October 6, 1978); Letter to Mr. Barry Geller (January 25, 1978); Letter re: ENI Corporation (December 3, 1975).

[8] Schedule I to Regulation A requires certified financial statements for one year only if the issuer is required to file such statements with the Commission.

Amendment to Rule 144

Rule 242 provides that no resales of securities of the issuer may be made pursuant to its terms. A similar provision is found in Rules 146 and 240. Resales of securities originally sold pursuant to these Rules are provided for by Rule 144. Accordingly, the Commission is proposing a corresponding amendment to Rule 144 to allow resales of securities originally sold pursuant to Rule 242 under Rule 144. The amendment would include Rule 242 securities within the definition of "restricted securities" in Rule 144(a)(3).

Operation of Proposals

The Commission is mindful of the cost to registrants and others of its proposal and recognizes its responsibilities to weigh with care the costs and benefits which result from its rules. Accordingly, the Commission specifically invites comments on the costs to registrants and others of the adoption of the proposal published herein.

Text of Proposed Rules

PART 2320—GENERAL RULES AND REGULATIONS SECURITIES ACT OF 1933

17 CFR Chapter II is propsoed to be amended as follows:

1. By amending paragraph (a)(3) of § 230.144 to read as follows:

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

* * * * *

(a) * * *

(3) The term "restricted securities" means securities acquired directly or indirectly from the issuer thereof, or from an affiliate of the issuer, in a transaction or chain of transactions not involving any public offering or from the issuer in a transaction in reliance on Rule 240 or Rule 242 under the Act or which were issued by an issuer in a tranaction in reliance on Rule 240 or Rule 242 and were acquired in the transaction or chain of transactions not involving any public offering.

* * * * *

2. By adding § 240.242 to read as follows:

§ 230.242 Exemption of limited offers and sales by qualified issuers.

Preliminary Notes

1. Rule 242 relates to transactions exempted from section 5 of the Act under section 3(b) of the Securities Act of 1933 (the "Act") (15 U.S.C. 77a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)). It does not provide an exemption from the anti-fraud provisions of the federal securities laws or from the civil liability provisions of section 12(2) of the Act or other provisions of the federal securities laws.

2. Nothing in this rule obviates the need for compliance with any applicable state law relating to the offer and sale of securities.

3. Reliance on this rule does not act as an election; the issuer can also claim the availability of any other applicable exemption.

4. This rule is available only to the issuer of the securities and is not available to affiliates or other persons for resales of the issuer's securities. The rule provides an exemption only for the transactions in which the securities are offered or sold by the issuer, not for the securities themselves. The securities acquired in a transaction effected in reliance on the rule are unregistered securities and are deemed to have the same status as if they were acquired in a transaction pursuant to section 4(2) of the Act.

5. In view of the objectives of the rule and the purposes and policies underlying the Act, the rule is not available to any issuer with respect to any transactions which, although in technical compliance with the rule, are part of a plan or scheme to evade the registration provisions of the Act. In such cases registration pursuant to the Act is required.

6. Section 5 of the Act requires that all securities offered by the use of mails or other channels of interstate commerce be registered with the Commission. Congress, however, provided certain exemptions from the registration provisions in section 3(a) of the Act and in section 3(b) allowed the Commission to exempt other securities if it finds that registration is not necessary in the public interest and for the protection of investors by reason of the small amount involved or the limited character of the public offering. Rule 242 is promulgated under section 3(b) and is designed to help certain corporate issuers raise limited amounts of capital from the public by providing objective requirements which are less burdensome than those found in other exemptions from registration under different sections of the Act.

In order to obtain the protection of the rule, all sales which are part of the same issue must meet all of the conditions of the rule. The issuer claiming the availability of the rule has the burden of establishing, in an appropriate forum, that it has satisfied all of the conditions. Broadly speaking, the conditions of the rule relate to limitations on the manner and amount of the issue, the furnishing of information, the number of purchasers, and the filing of notice of sales.

The term "issue" is not defined in section 3(b) or in the rule. The determination as to whether separate sales of securities are part of the same issue (i.e., are deemed to be "integrated") depends on the particular facts and circumstances. The following factors should be considered in determining whether separate sales are part of the same issue for purposes of section 3(b) and Rule 242:

(a) Whether the sales are part of a single plan of financing;

(b) Whether the sales involve issuance of the same class of security;

(c) Whether the sales have been made at or about the same time;

(d) Whether the same type of consideration is received; and

(e) Whether the sales are made for the same general purpose.

These same factors are applicable to a determination of whether offers and sales should be integrated for purposes of the exemption under Section 4(2) of the Act. *See* Securities Act Release No 4552 (November 6, 1962) (27 FR 11316).

The text of the rule follows:

(a) *Definitions.* For purposes of this rule only, the following definitions will apply.

(1) *Accredited Person.* The term "accredited person" shall include any person which the issuer and any person acting on its behalf have reasonable grounds to believe and believe, after making reasonable inquiry, comes within any of the following categories at the time of the sale of the securities of the issuer pursuant to this rule:

(i) Any bank as defined in section 3(a)(2) of the Act whether acting in its individual or fiduciary capacity; insurance company as defined in section 2(13) of the Act; employee benefit plan, including an Individual Retirement Account, which is subject to the provisions of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act, which is either a bank, insurance company or registered investment adviser; investment company registered under the Investment Company Act of 1940; Small Business Investment Company or Mnority Enterprise Small Business Investment Company licensed by the U.S. Small Business Administration; and

(ii) Any person who purchases $100,000 or more of securities of the issuer sold pursuant to this rule for (A) cash, or (B) an obligation to pay which provides for full recourse against the purchaser of the securities and for discharge of the obligation within 60 days of the first issuance of the securities, or (C) the cancellation of any indebtedness owed by the issuer to the purchaser.

(2) *Affiliate.* The term "affiliate" of a person means a person that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with such person.

(3) *Predecessor.* A "predecessor" of an issuer is (i) a person the major portion of whose assets have been acquired directly or indirectly by the issuer, or (ii) a person from which the issuer acquired directly or indirectly the major portion of its assets.

(4) *Qualified Issuer.* The term "qualified issuer" includes any corporation which is incoprorated under the laws of the United States or Canada or any State or Province thereof, and has or proposes to have its principal business operations in the United States, if a domestic corporation, or Canada or the United States if a Canadian corporation, and which:

(i) Is not an investment company;

(ii) Does not engage or intend to engage in oil and gas related operations which exceed the criteria for exemption specified in § 210.3–18(k) of Regulation S–X;

(iii) Does not engage or intend to engage in significant mining operations.

Note.—For purposes of this rule, the criteria for exemption specified in § 210.3–18(k) of Regualtion S–X for oil and gas operations shall be considered by analogy as an appropriate test for determining the significance of mining operations.

(iv) Is not a majority owned subsidiary of an issuer which does not meet the qualifications for use of this rule as specified herein.

(5) *Securities of the Issuer.* The term "securities of the issuer" shall include:

(i) All securities issued by a qualified issuer;

(ii) All securities issued by any predecessor of a qualified issuer; and

(iii) All securities issued by any affiliate of a qualified issuer which was organized or became such an affiliate within the past twelve months.

(b) *Conditions to be Met.* All sales which are part of the same issue of securities offered or sold by a qualified issuer in compliance with all the conditions in paragraphs (c) through (h) of this rule shall be exempt from registration under section 5 of the Act pursuant to section 3(b) of the Act. For purposes of identifying a single issue, sales of securities occurring more than six months prior to the commencement of an issue of securities pursuant to this rule and sales of securities and offers in connection therewith occurring at any time after six months from the completion date of the issue pursuant to this rule, shall not be considered part of the same issue so long as there are during neither of said six-month periods any offers or sales of securities by or for the issuer of he same or similar class as those offered or sold pursuant to this rule: *Provided, however,* That offers or sales of securities pursuant to the exemption from registration provided by Regulation A shall not result in loss of the safe harbor described herein.

Note.—In the event that securities of the same or similar class as those offered pursuant to this rule are offered or sold, other than pursuant to a Regulation A exemption, less than six months prior to or subsequent to any offer or sale pursuant to this rule, *see* Preliminary Note 6 hereof as to which offers or sales may be deemed to be part of the same issue.

(c) *Limitation on Aggregate Offering Price of Each Issue.* The aggregate offering price of each issue by a qualified issuer shall not exceed the amount allowed under section 3(b) of the Act, less the aggregate gross proceeds from all securities sold pursuant to any section 3(b) exemption within six months prior to the commencement of the issue pursuant to this rule.

Note 1.—The calculation of the aggregate offering price may be illustrated as follows: If an issuer sold $500,000 of its securities on June 1, 1979 in reliance on this rule, $50,000 on September 1, 1979 pursuant to Rule 240, and an additional $200,000 on October 1, 1979 pursuant to Regulation A, the issuer would be permitted to sell only $1,250,000 more until December 1, 1979, since until that date the issuer must count all three prior sales toward the present section 3(b) $2,000,000 limit. However, if the issuer made its fourth sale under this rule on December 1, 1979, the issuer could sell $1,750,000 of its securities, since the June 1, 1979 sale would not be within the preceding six months.

Note 2.—The calculation of the aggregate offering price includes all consideration received for the issuance of securities of the issuer, including cash, services, property, notes, cancellation of debt, or other consideration.

(d) *Limitation on Manner of Offering.* Neither the issuer nor any person acting on its behalf shall offer or sell securities pursuant to this rule by means of any form of general solicitation or general advertising, including but not limited to, any advertisement, article, notice or other communication published in any newspaper, magazine or similar medium or broadcast over the television or radio.

(e) *Limitation on Number of Purchasers.* (1) The issuer shall have reasonable grounds to believe, and after making reasonable inquiry, shall believe, that there are no more than thirty-five purchasers of each issue of the securities of the issuer from the issuer pursuant to this rule.

Note.—See paragraph (b) of this rule and Preliminary Note 6 as to what may or may not constitute an issue pursuant to this rule.

(2) For purposes of computing the number of purchasers for paragraph (e) only:

(i) The following purchasers shall be excluded:

(A) Any relative, spouse, or relative of the spouse of a purchaser who has the same home as the purchaser;

(B) Any trust or estate in which a purchaser or any of the persons related to him as specified in paragraph (e)(2)(A) or (C) of this section collectively have 100 percent of the beneficial interest (excluding contingent interests);

(C) Any corporation or other organization of which a purchaser or any of the persons related to him as specified in paragraph (e)(2)(i) (A) or (B) of this section collectively are the beneficial owners of all the equity securities (excluding directors' qualifying shares) or equity interests; and

(D) Any accredited person as defined in paragraph (a)(1) of this section.

Note.—The issuer has to satisfy all the other provisions of the rule with respect to all purchasers whether or not they are included in computing the number of purchasers under this paragraph.

(3) There shall be counted as one purchaser any corporation or other organization, except that if such entity was organized for the specific purpose of acquiring the securities offered, each beneficial owner of equity interests or equity securities in such entity shall count as a separate purchaser for all provisions of this rule.

(f) *Furnishing of Information.* (1) If the issuer sells securities pursuant to this rule only to accredited persons, the rule does not specify what information must be furnished to such persons. In any transaction involving only non-accredited persons, or both accredited and non-accredited persons, the issuer shall furnish the following information to all purchasers in writing during the course of such transaction and prior to sale:

(i) The same kind of information as that specified in Part I of Form S–18, to the extent material to an understanding of the issuer, its business, and the securities being offered; *Provided however,* That only the financial statements for the issuer's most recent fiscal year must be certified by an independent public accountant or a certified public accountant.

(ii) Such further material information, if any, as may be necessary to make the required information, in the light of the circumstances under which it is furnished, not misleading.

(iii) An issuer that is subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 may satisfy the informational requirements of paragraph (f)(1)(i) of this section by furnishing purchasers with the information contained in its most recent annual report, definitive proxy statement, and any other reports or documents required to be filed by the issuer pursuant to section 13(a) or 15(d) of the Securities Exchange Act since the

filing of such annual report, except that the information required by items 1, 2 and 3 of Part I of Form S–18, if applicable, should also be provided.

(2) The issuer shall also make available to each offeree, during the course of the transaction and prior to sale, the opportunity to ask questions of, and receive answers from, the issuer or any person acting on its behalf concerning the terms and conditions of the offering and to obtain any additional information, to the extent the issuer possesses such information or can acquire it without unreasonable effort or expense, necessary to verify the accuracy of the information obtained pursuant to paragraph (f)(1) of this section.

(3) The issuer shall also make available to each non-accredited person any written information obtained from the issuer by any accredited person prior to the date of purchase by such non-accredited person.

(g) *Limitation on Resale.* In determining the availability of an exemption from registration for resale of securities acquired in a transaction effected in reliance on this rule, such securities shall be deemed to have the same status as if they had been acquired in a transaction pursuant to section 4(2) of the Act and cannot be resold without registration under the Act or exemption therefrom. The issuer shall exercise reasonable care to assure that the purchasers of the securities are not underwriters within the meaning of section 2(11) of the Act, which reasonable care shall include, but not necessarily be limited to:

(1) Making reasonable inquiry to determine if the purchaser is acquiring the securities for his own account or on behalf of other persons;

(2) Informing the purchaser of the restrictions on resale; and

(3) Placing a legend on the certificate or other document evidencing the securities stating that the securities have not been registered under the Act and setting forth or referring to the restrictions on transferability and sale of the securities.

(h) *Filing of Notice of Sales.* Within ten days after the end of the month in which the initial sale in reliance on this rule is made, the issuer shall file with the Commission at its principal office in Washington, D.C. two copies of a notice on Form 242 which shall be signed by a duly authorized officer of the issuer. At the same time, a third copy of such notice shall be filed at the Commission's Regional Office for the region in which the issuer's principal business operations are conducted or proposed to be conducted in the United States. The copy of such notice with respect to an issuer having or proposing to have its principal business operations outside the United States shall be filed with the Regional Office for the region in which the offering is primarily conducted or proposed to be conducted. After such original notice has been filed, subsequent notices need only be filed every six months if additional sales in reliance on the rule are made. Such notices need only report the information required by Part IV and any material change in the facts from those set forth in Parts I–III of the original notice.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

3. By adding § 239.242 as follows:

§ 239.242 Form 242, notice of sales of securities pursuant to § 230.242 of this chapter.

Three copies of this form shall be filed with the Commission not more than 10 days after the end of the month in which the first sale is made in reliance upon Rule 242 (§ 230.242 of this chapter). Every six months after this initial filing, another notice shall be filed, if any further sales in reliance on the rule have been made, which need only report the issuer's name and information in response to Part IV and any material changes in Parts I–III from the facts previously reported.

Securities and Exchange Commission,
Washington, D.C. 20549.

Form 242.—Notice of Sales of Securities Pursuant to Rule 242

Instructions: Two copies of this notice are to be filed with the Commission at its principal office in Washington, D.C. not more than 10 days after the end of the month in which the first sale is made in reliance on the rule. At the same time, a third copy of such notice, shall be filed at the Commission's Regional Office for the region in which the issuer's principal business operations are conducted or proposed to be conducted in the United States. The copy of such notice with respect to an issuer having or proposing to have its principal business operations outside the United States shall be filed with the Regional Office for the region in which the offering is primarily conducted or proposed to be conducted. Every six months after this initial filing, copies of another notice shall so be filed, if any further sales in reliance on the rule have been made, which need only report the issuer's name and information in response to Part IV and any material changes in Parts I–III from the facts previously reported.

Issuer's Name, Address and Telephone Number (including area code)

_____

_____

Instructions: Please circle or check the appropriate response or fill in the blanks. Do not leave any answers blank. If your answer to the question is "none," so state.

I. Basic Identification of Issuer

A. Does the issuer have an SEC file number? 1. No ——2. Yes —— If yes, what is it? ——

B. What is the issuer's IRS employer identification number?

C. Has the issuer been assigned a CUSIP number for its securities? 1. No ——2. Yes —— If yes, what are the first 6 digits? ——

D. What exchange or market, if any, are the issuer's securities traded on? 1. NYSE —— 2. AMEX —— 3. NASDAQ —— 4. Other. If other, specify ——

E. What is the issuer's Standard Industrial Classification (SIC) at the 3 or 4 digit level? ——

II. Statistical Information About the Issuer

A. What were the issuer's gross revenues at the end of its latest fiscal year?

1. Less than $500,000
2. $500,001–$1,000,000
3. $1,000,001–$3,000,000
4. $3,000,001–$5,000,000
5. $5,000,001–$10,000,000
6. $10,000,001–$25,000,000
7. $25,000,001–$100,000,000
8. Over $100,000,000

B. What were the issuer's total consolidated assets as of the end of its latest fiscal year?

1. Less than $50,000
2. $50,000–$250,000
3. $250,001–$500,000
4. $500,001–$1,000,000
5. $1,000,001–$3,000,000
6. $3,000,001–$5,000,000
7. $5,000,001–$10,000,000
8. Over $10,000,000

C. Did the issuer have any net income at the end of its lates fiscal year? 1. Yes —— 2. No. ——

If yes, circle one:

1. Less than $50,000
2. $50,000–$250,000
3. $250,001–$500,000
4. $500,001–$1,000,000
5. $1,000,001–$3,000,000
6. $3,000,001–$5,000,000
7. $5,000,001–$10,000,000
8. Over $10,000,000

D. What was the issuer's shareholders' equity at the end of its latest fiscal year?

1. Less than $25,000
2. $25,000–$125,000
3. $125,001–$250,000
4. $250,001–$500,000
5. $500,001–$1,000,000
6. $1,000,001–$3,000,000
7. $3,000,001–$5,000,000
8. $5,000,001–$10,000,000
9. Over $10,000,000

E. How many shareholders did the issuer have at the end of its latest fiscal year?

1. 1–10
2. 11–25
3. 26–50
4. 51–100
5. 101–200
6. 201–400
7. 401–500
8. Over 500

F. How many shares were held by public shareholders at the end of the issuer's latest fiscal year?

1. Less than 500,000
2. 500,001–1,500,000
3. 1,500,001–2,500,000
4. 2,500,001–3,500,000
5. 3,500,001–5,000,000
6. Greater than 5,000,000

G. How many shares were outstanding at the end of the issuer's latest fiscal year?

1. Less than 500,000
2. 500,001–1,500,000
3. 1,500,001–2,500,000
4. 2,500,001–3,500,000
5. 3,500,001–5,000,000
6. Greater than 5,000,000

H. How many full-time employees did the issuer have at the end of its latest fiscal year?

1. 0
2. 1–5
3. 6–10
4. 11–20
5. 21–30
6. 31–40
7. 41–50
8. 51–100
9. 101–250
10. 251–500
11. 501–750
12. Over 750

I. How many part-time employees did the issuer have at the end of its latest fiscal year?

1. 0
2. 1–5
3. 6–10
4. 11–20
5. 21–30
6. 31–40
7. 41–50
8. Over 50

III. Brief Narrative Information About the Issuer

A. In what year was the issuer incorporated? ——

B. In what state is the issuer incorporated? ——

C. Where are the issuer's principal business operations located? ——

D. Please briefly describe the issuer's business.

——————————

——————————

——————————

——————————

IV. Section 3(b) Sales Limit

A. Type and amount of securities sold pursuant to Rule 242.

1. Debt —— Equity —— Convertible ——
2. Amount of Rule 242 sales this month——

B. Amount of all section 3(b) sales of unregistered securities in preceding 6 months by type and exemption.

Exemption, type of securities, and amount

Rule 242, ——, ——

Reg A, ——, ——

Rule 240, ——, ——

Pursuant to the requirements of Rule 242 under the Securities Act of 1933, the issuer has duly caused this notice to be signed on its behalf by the undersigned duly authorized officer or person acting in a similar capacity.

Date of Notice:——

Issuer——

Officer——

Instruction: Print the name and title of the signing representative under his signature. At least one copy of the notice filed with the Commission's principal office in Washington, D.C. shall be manually signed. Any copies not manually signed shall bear typed or printed signatures.

[Attention: Intentional misstatements or omissions of facts constitute Federal criminal violations (See 18 U.S.C. 1001).]

(Secs. 3(b), 4(1), 19(a), 48 Stat. 75, 77, 85; sec. 209, 48 Stat. 908; 59 Stat. 167; sec. 6, 68 Stat. 684; sec. 12, 78 Stat. 580; 84 Stat. 1480; sec. 308(a)(1), (2), (3), 90 Stat. 56, 57; sec. 18, 92 Stat. 275; sec. 2, 92 Stat. 962; (15 U.S.C. 77c(b), 77d(1), 77s(a)))

The Commission hereby proposes for comment Rule 242, Form 242, and an amendment to Rule 144 pursuant to sections 3(b), 4(1), and 19(a) of the Securities Act of 1933.

By the Commission.

George A. Fitzsimmons,

Secretary.

September 11, 1979.

[FR Doc. 79-28836 Filed 9-17-79; 8:45 am]

BILLING CODE 8010-01-M

federal register

Tuesday
September 18, 1979

Part VI

Department of Agriculture

Forest Service

Enhancement, Protection and Management of Cultural Resources; Proposed Policy

DEPARTMENT OF AGRICULTURE

Forest Service

Enhancement, Protection and Management of Cultural Resources; Proposed Policy

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This document sets forth proposed Forest Service policies and procedures for compliance with the National Historic Preservation Act (NHPA) as amended, Executive Order 11593, and for implementing the regulations of the Advisory Council on Historic Preservation (36 CFR Part 800) and regulations issued by the Secretary of Agriculture (7 CFR Part 3100).

DATE: Comments due November 19, 1979.

ADDRESS: Send comments to: Chief, Forest Service, P.O. Box 2417, Room 4148, South Building, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Dr. Janet Friedman, Cultural Resource Specialist, USDA, Forest Service, Room 4148, South Building, Washington, D.C. 20013 (202–447–3520).

Supplementary Information: The Chief, Forest Service proposes these policies and procedures on cultural resource management, enhancement and protection, to implement the regulations of the Secretary of Agriculture (7 CFR Part 3100) and the regulations of the Advisory Council on Historic Preservation (ACHP) implementing section 106 of the National Historic Preservation Act. These proposed procedures have been developed in consultation with the ACHP, the Office of Environmental Quality, Secretary of Agriculture, and interested publics.

After the public comment period, the final direction reflecting that comment will be published in the **Federal Register** as it will appear in the Forest Service Directive System. For purposes of Forest Service administrative procedure, that final direction will be divided into two segments; policy will appear in the Forest Service Manual and procedures in a Forest Service handbook.

This proposal has been reviewed under USDA criteria to implement Executive Order 12044 and has been determined to be significant. An approved Environmental Assessment and Draft Impact Analysis Statement is available from Dave Ketchum, Environmental Coordinator, at the address provided above.

Public comment is solicited particularly for § 2361.34 which deals with Forest Service responsibility for cultural resources potentially impacted by activities carried out under permit. Special attention also is solicited for § 2361.36b concerning Council review of Forest Service plans.

Dated: September 13, 1979.

R. Max Peterson,

Chief.

Accordingly, the proposed procedures will read as follows:

2361 Cultural Resources.
2361.01 Authority.
2361.02 Objective.
2361.03 Policy.
2361.04 Responsibility.
2361.05 Definitions.
2361.1 Classification of Cultural Resources.
2361.2 Inventory.
2361.21 Overview.
2361.22 Survey.
2361.23 Data Storage.
2361.3 Compliance Procedures.
2361.31 Types of Forest Service Undertaking.
2361.32 Type 1 Undertakings.
2361.32a Flow Chart.
2361.32b Inventory of National Register and eligible properties.
2361.32c Identification of Potentially Eligible Properties Prior to SHPO Consultation.
2361.32d Determination of National Register Eligibility with SHPO Consultation.
2361.32e Informing the Public.
2361.32f Determination of Effect.
2361.32g Identification of Alternatives.
2361.32h Identification of Mitigation Measures.
2361.32i Submission of Preliminary Case Report.
2361.32j Consultation Process.
2361.32k Agency Decision.
2361.32l Implementation of Mitigation Measures.
2361.33 Type 2 Undertakings.
2361.34 Type 3 Undertakings.
2361.35 Type 4 Undertakings.
2361.36 Type 5 Undertakings.
2361.36a Land Use Plans.
2361.36b Council Comment on Plans.
2361.36c Wilderness.
2361.37 Resources Discovered During Construction.
2361.37a Procedure.
2361.37b Alternate Procedure.
2361.4 Recovery and Curation.
2361.41 Recovery.
2361.42 Investigative Procedures.
2361.43 Curation.
2361.5 Protection.
2361.51 Removal of Cultural Resources.
2361.52 Protective Measures.
2361.53 Disturbance During Project Activity.
2361.6 Public Use and Enhancement.
2361.61 Public Use.
2361.62 Enhancement.
2361.63 Report distribution.
2361.64 Bibliography.

2361 Cultural Resources. The cultural foundation of our Nation includes buildings, sites, areas, architecture, memorials, and objects which have scientific, historic, or social values. These comprise an irreplaceable and nonrenewable resource relating to past human life.

The cultural resources of the National Forest System are of special concern to scientists, students, and others interested in history, prehistory, and the development of human cultural systems. The public also has developed a strong interest in the national heritage left by native and immigrant Americans, as a result of which these cultural resources are of growing importance to outdoor recreation.

Much evidence of the past, such as artifacts, archeological sites, and architecture is extremely fragile and care must be taken to avoid harmful impacts. The resource is increasingly threatened by development and public use. The damage, and the sites themselves, frequently are subtle and inconspicuous and often can only be recognized by people with special training in cultural resource management.

The National Forests and Grasslands contain much of the undisturbed evidence of early habitation in America. The remoteness of much National Forest System land has limited the impact on these cultural resources. Increasing public use of the outdoors and the intensified development of public lands are increasing the probability that cultural resources may be damaged or lost and intensifying the need to protect and manage this irreplaceable resource.

2361.01 Authority. The following Federal laws and Executive orders are the most significant of the many that govern cultural resources management (FSM 1020):

1. *The Organic Administration Act of June 4, 1897.* Authorizes the Secretary of Agriculture to regulate occupancy and use of the National Forests. Protection of cultural resources from vandalism is authorized under 36 CFR 261.9e. Classification of special interest areas which should be managed for recreation use substantially in their natural condition is authorized under 36 CFR 294.1a. Such areas which are of a nature or significance to justify or require more intensive management, protection, interpretation, or use are authorized under 36 CFR 294.1b.

2. *Antiquities Act of 1906.* (Pub. L. 59–209; 34 Stat. 225; 16 U.S.C. 431 et seq.) Provides for the protection of historic or prehistoric remains or any object of antiquity on Federal lands; establishes criminal sanctions for unauthorized destruction or appropriation of antiquities; and authorizes scientific

investigation of antiquities on Federal lands, subject to permit and regulations. Paleontological resources also are considered to fall within the authority of this Act.

3. *Historic Sites Act of 1935.* (Pub. L. 74–292; 49 Stat. 666; 16 U.S.C. 461 et seq.) Authorizes the establishment of National Historic Sites and otherwise authorizes the preservation of properties of national historical or archeological significance; authorizes the designation of National Historic Landmarks; establishes criminal sanctions for violation of regulations pursuant to the Act; authorizes interagency, intergovernmental, and interdisciplinary efforts for the preservation of cultural resources; and other provisions.

4. *Reservoir Salvage Act of 1960.* (Pub. L. 86–521; 74 Stat. 220; 16 U.S.C. 469–469c.) Provides for the recovery and preservation of historical and archeological data, including relics and specimens, that might be lost or destroyed as a result of the construction of dams, reservoirs, and attendant facilities and activities.

5. *National Historic Preservation Act of 1966.* (Pub. L. 89–665; 80 Stat. 915; 16 U.S.C. 470 et seq.) Declares a national policy of historic preservation defined in the Act as the protection, rehabilitation, restoration, and reconstruction of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, or culture, including the encouragement of preservation on the State and private levels; directs the expansion of the National Register of Historic Places (National Register) to include cultural resources of State, local, and national significance; authorizes matching Federal grants to States and the National Trust for Historic Preservation for acquisition and rehabilitation of National Register properties; establishes an Advisory Council on Historic Preservation (ACHP); provides direction in Section 106 for Federal Agencies to follow in the event an undertaking may affect a property on, or eligible to, the National Register. As amended, the Act authorizes the Secretary of the Interior to withhold from disclosure to the public locational information on National Register listings "whenever he determines that the disclosure of specific information would create a risk of destruction or harm to such sites or objects" (Pub. L. 94–458, 90 Stat. 1942). Section 106 of the National Historic Preservation Act is implemented by regulations issued by the ACHP (36 CFR Part 800).

6. *National Environmental Policy Act of 1969* (NEPA). (Pub. L. 91–190; 83 Stat. 852; 42 U.S.C. 4321 et seq.) Declares that it is the policy of the Federal Government to preserve important historic, cultural, and natural aspects of our national heritage. Compliance with NEPA requires consideraton of all environmental concerns during project planning and execution.

7. *Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971.* (36 CFR Part 8921) Asserts that the Federal Government shall provide leadership in preserving, restoring, and maintaining the historic and cultural environment of the Nation; directs Federal Agencies to ensure the preservation of cultural resources in Federal ownership, and institutes direction to ensure that Federal plans and programs contribute to the preservation and enhancement of nonfederally-owned sites; directs Federal Agencies to locate, inventory, and nominate to the National Register all properties under their control or jurisdiction that meet the criteria for nomination; directs them them to exercise caution during the interim period to ensure that cultural resources under their control are not inadvertently damaged, destroyed, or transferred before the completion of inventories and evaluation of properties worthy of nomination to the National Register, and directs the Secretary of the Interior to undertake certain advisory responsibilities in compliance with the order.

8. *Historical and Archeological Data Preservation Act of 1974.* (Pub. L. 93–291; 88 Stat. 174.) Amends the Reservoir Salvage Act of 1960 to extend provisions and provide a mechanism for funding for the protection of historical and archeological data at dams to involve any alternation of the terrain caused as a result of any Federal construction project or Federally licensed activity or program.

9. *Other Acts such as Multiple Use-Sustained Yield Act of 1960 (74 Stat. 215), the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476), and National Forest Management Act of 1976 (90 Stat. 2949).* Establishes National Forest management direction and thereby may affect cultural resource management activities.

10. *State and Local Laws and Orders.* Legislation, orders, regulations, and ordinances vary greatly from State to State. Federal Agencies should be aware of the protection that States and their dependencies have provided for cultural resources, and take them into account during resource surveys and development planning.

11. *The President's Memorandum on Environmental Quality and Water Resources Management, July 12, 1978.* Directs Federal Agencies with water resource and related land resource responsibilities and programs to publish procedures implementing the ACHP's Regulations 36 CFR 800.

12. *American Indian Religious Freedom Act (92 Stat. 469), August 11, 1978.* Establishes as policy of the United States protection and preservation for American Indians of their inherent right to freedom to believe, express, and exercise their traditional religions. The Forest Service has a responsibility to recognize the connection between the cultural resource program and the religious freedom of American Indians. The Act directs Agencies to consult with native traditional leaders in order to determine the potential effect of Forest Service activities upon Native American religious and cultural rights and practices.

13. *Public Buildings Cooperative Use Act of 1976 (90 Stat. 2505) and Executive Order 12072 "Federal Space Management."* The Act encourages adaptive use of historic buildings as administrative facilities for Federal Agencies and activities; the Executive Order directs Federal agencies to locate administrative and other facilities in central business districts.

2361.02 Objective.

1. To manage the cultural resources as nonrenewable resources in order to maintain their scientific, historical, and social integrity.

2. To protect cultural resources by ensuring compliance with the requirements of the Antiquities Act, National Historic Preservation Act, Executive Order 11593, National Environmental Policy Act, Historical and Archeological Data Preservation Act, and other relevant regulation, legislation, and Executive orders.

3. To enhance, interpret, and maintain cultural resources for the enjoyment, education, and benefit of the American people.

4. To promote scientific study of past human behavior and cultures.

2361.03 Policy. The Forest Service policy is to:

1. Incorporate cultural resource considerations at the earliest stages of planning for the management of the National Forest System, Research, and State and Private Forestry programs;

2. Develop a data base of cultural resources on National Forest System lands to be integrated into land management planning. Nominate qualifying cultural resources to the National Register of Historic Places;

3. Conduct cultural resource evaluation and recovery programs only

with direction of an appropriate cultural resource specialist;

4. Ensure cultural properties and their records are protected from unauthorized uses;

5. Maintain appropriate contacts and cooperate with other Federal, State, (e.g., State Historic Preservation Officer) Regional, and local organizations regarding cultural resource management;

6. Fully comply with Advisory Council on Historic Preservation procedures as described in FSM 2361.3 and 1023;

7. Study, interpret, maintain, and enhance cultural resources so that the public may gain a better understanding and perspective of the Nation's cultural heritage;

8. Foster and encourage research relevant to cultural resource concerns;

9. Participate in and encourage sharing of information with interested Federal and State agencies.

2361.04 Responsibility.

2361.04a Chief's responsibilities.

1. Provide national leadership for the Forest Service program of total cultural resource management. Develop and adopt policies, procedures and direction;

2. Coordinate with USDA, other Departments and agencies, universities, professional and avocational organizations, and interested publics on a national level;

3. Provide national leadership and direction in Forest Service cultural resource training and awareness.

2361.04b Regional Forester responsibilities.

1. Foster and maintain relationships and coordinate programs with other agencies, including regional offices of Heritage Conservation and Recreation Service (HCRS), State Historic Preservation Offices (SHPO), State archeologists, State and local universities and colleges, professional and avocational organizations, museums, private firms and other interested publics;

2. Ensure that Forest Service personnel have necessary training to fulfill cultural resource responsibilities;

3. Ensure that activities are carried out in compliance with Federal legislation and regulation, and in such a manner as to avoid or minimize adverse effect to the resource. Consult with appropriate State and Federal Agencies regarding projects within their authority. Monitor compliance activities at the Forest and District levels.

4. Establish and conduct a regional program of total cultural resource management designed to inventory, evaluate, protect, interpret, and enhance cultural resources in compliance with relevant legislation, regulation, and Executive orders;

5. Develop and implement programs of cultural resource training geared to the various needs of Forest Service personnel. Training should include: continued maintenance and upgrading of all phases of professional expertise for cultural resource specialists; paraprofessional and technician training; understanding of process and cultural resource values for line officers; cultural resource awareness and appreciation for all personnel;

6. Consult with leaders of Native American groups and organizations, pursuant to the American Indian Religious Freedom Act, to solicit their views and needs in making cultural resource management decisions which may affect the practice of their religions.

2361.04c Area Director responsibilities.

1. Foster and maintain relationships and coordinate programs with other agencies, including regional offices of Heritage Conservation and Recreation Service (HCRS), State Historic Preservation Offices (SHPO), State archeologists, State and local universities and colleges, professional and avocational organizations, museums, private firms and other interested publics;

2. Ensure that Forest Service personnel have necessary training to fulfill cultural resource responsibilities;

3. Ensure that activities are carried out in compliance with Federal legislation and regulation, and in such a manner as to avoid or minimize adverse effect to the resource. Consult with appropriate State and Federal Agencies regarding projects within their authority. Monitor compliance activities at the Forest and District levels.

4. Establish a strong communications link between State Forester and SHPO;

5. Work with State Foresters to develop training programs in cultural resource orientation and understanding;

6. Provide guidance for States to ensure cultural resource protection;

7. Provide technical assistance to State Foresters regarding cultural resources.

2361.04d Station Director responsibilities.

1. Foster and maintain relationships and coordinate programs with other agencies, including regional offices of Heritage Conservation and Recreation Service (HCRS), State Historic Preservation Offices (SHPO), State archeologists, State and local universities and colleges, professional and avocational organizations, museums, private firms and other interested publics;

2. Ensure that Forest Service personnel have necessary training to fulfill cultural resource responsibilities;

3. Ensure that activities are carried out in compliance with Federal legislation and regulation, and in such a manner as to avoid or minimize adverse effect to the resource. Consult with appropriate State and Federal Agencies regarding projects within their authority. Monitor compliance activities at the Forest and District levels.

4. Identify research needs in cultural resources in coordination with Regional Foresters and Area Directors;

5. Develop and implement research programs to fulfill identified needs.

2361.04e Forest Supervisor responsibilities.

1. Develop and carry out a program of cultural resource management, inventory, evaluation, protection, and enhancement;

2. Include cultural resources in Forest land use planning;

3. Ensure that all undertakings are in compliance with Federal legislation, regulation, and Executive orders;

4. Ensure that the public is informed about cultural resource activities and about actions which may effect cultural resources;

5. Consult with representatives of local Native American communities, pursuant to the American Indian Religious Freedom Act, to solicit their views and needs in making cultural resource management decisions which may affect the practice of their religions.

6. Foster and maintain relationships and coordinate programs with local agencies, SHPO, State archeologists, colleges, museums, and other local interested publics.

2361.05 Definitions.

All definitions are as used in 36 CFR 800 (FSM 1023). In addition, the following definitions have been added:

1. *Advisory Council on Historic Preservation (ACHP).* The Council established by Title II of the National Historic Preservation Act to advise the President and Congress, encourage private and public interest in historic preservation, and administer Section 106 of the National Historic Preservation Act.

2. *Compliance Procedures.* Forest Service procedures to implement requirements of 36 CFR Part 800 and Section 106 of the National Historic Preservation Act (FSM 2361.3).

3. *Cultural Resource Specialist.* A qualified professional trained in anthropology, archeology, history, architectural history, or cultural resource management, as appropriate to accomplish Forest Service goals (FSM 1023; 36 CFR 61.5).

4. *Cultural Resources.* Physical remains of districts, sites, structures, buildings, networks, events, or objects used by humans in the past. They may be historic, prehistoric, archeological, or architectural in nature. Cultural resources are non-renewable.

5. *Culture.* Learned and shared patterns of human activity which are evident in behavior and the results of behavior.

6. *Effect.* Refers to any condition of a project or undertaking which may cause any change, either beneficial or adverse, in the quality of the historical, architectural, archeological, or cultural character that qualifies a property for inclusion in the National Register. An undertaking is considered to have an effect whenever any condition of the undertaking changes the integrity of location, design, setting, materials, workmanship, feeling or association of the property that contributes to its significance in accordance with the National Register criteria. An effect may be direct or indirect. Direct effects are caused by the undertaking and occur at the same time and place. Indirect effects include those caused by the undertaking that are later in time or further removed in distance, but are still reasonably forseeable.

6a. *Adverse Effect.* Changes in a property which negatively alter those qualities that qualify it for inclusion in the National Register. Criteria for determination of adverse effect are listed in (FSM 2361.32f1).

6b. *No Adverse Effect.* An effort that is determined not to be adverse according to the criteria listed in (FSM 2361.32f1).

7. *Eligibility.* The quality of significance of a property in terms of National Register criteria (FSM 2361.32d).

8. *Evaluation.* The process of determining the scientific social and historical significance of a cultural resource property by cultural resource specialists. Evaluations also consider the effects proposed actions or undertakings will have on the scientific, social, and historical significance of cultural resources.

9. *Inventory.* Strategies designed to collect existing information and locate cultural resources. Inventories are divided into the two general categories of overview and survey.

9a. *Overview.* The systematic collection, summation, and organization of existing information relevant to the cultural resources of an area. Overviews are broad brush, and may be used in land management plans and similar general plans that do not allocate lands (FSM 2361.21).

9b. *Survey.* That type of field investigation designed to locate cultural resources in a specified area. Limitations are related to vegetation and topographic factors that make some portions of an area unsurveyable with currently accepted techniques. The results also may be limited by the sampling strategy employed (FSM 2361.22).

10. *Memorandum of Agreement (MOA).* The agreement executed when needed by the responsible Forest Service official, the Executive Director of the ACHP, and the SHPO to avoid, reduce, or mitigate potential Adverse Effects on National Register or eligible properties (FSM 2361.32j). The MOA constitutes ACHP comment when consulting parties agree.

11. *Potentially eligible property.* Any district, site, building, structure, or object that may meet National Register criteria, but for which insufficient information exists to make a determination (Class II Properties, FSM 2361.1).

12. *Significance.* Those qualities or characteristics that qualify a property as eligible for inclusion in the National Register.

13. *Undertaking.* A Forest Service or Forest Service-assisted action, activity, or program, or the approval, sanction, assistance, license, permit, or support of any non-Federal action, activity, or program (FSM 2361.31).

13a. *Direct undertakings.* Actions, activities, and programs in which Forest Service involvement is immediate. Such undertakings generally include actions, activities, and programs which are: (1) Planned, programmed, constructed, managed, or maintained by the Forest Service; (2) financed in whole or part by the Forest Service; (3) permitted or authorized by the Forest Service; or (4) proposed by the Forest Service for congressional authorization or appropriation.

13b. *Indirect undertakings, or related activities.* Those actions, activities, or programs that are interdependent parts of any direct Forest Service undertaking. They are considered to be interdependent whenever they make possible or support an undertaking or are themselves supported by an undertaking or other related activities. Indirect undertakings may or may not be Federally managed, supported, or sanctioned. The term "indirect undertakings" and "related activities" as used by ACHP generally have the same meaning as the terms "connected actions," "cumulative actions," and "similar actions" used by the Council on Environmental Quality (CEQ) for purposes of NEPA.

13c. *Site-specific undertakings.* Actions, activities, and programs that can be identified in terms of specific geographical areas or resources at the time of Forest Service involvement.

13d. *Non-site-specific undertakings.* Those actions, activities, and programs that can reasonably be expected to affect National Register or eligible properties, but that cannot be identified in terms of specific geographical areas, resources, or properties at the time of Forest Service involvement.

2361.1 Classification of Cultural Resources. Cultural resources on the National Forests are classified in the following three categories for purposes of protection and compliance:

1. *Class I.* Those properties that have been evaluated and meet the eligibility criteria for inclusion in the National Register or other Federal, State, or local registers. Potential impact to Class I properties requires compliance with procedures outlined in (FSM 2361.3).

2. *Class II.* Those properties that have not been sufficiently evaluated for inclusion in the National Register or other Federal, State, or local registers. Determination of eligibility is required before impact to any Class II site is undertaken. Once determination is completed, the site is treated as either a Class I or Class III property.

3. *Class III.* Those properties that have been evaluated and do not meet the eligibility criteria for inclusion in the National Register or other Federal, State, or local registers. These resources must be managed in accordance with the Forest land management plan; they are not subject to ACHP compliance procedures.

2361.2 Inventory. The first step in the Cultural Resource Management program is the identification of the resources. Inventory procedures include overview and field survey.

2361.21 Overview. The objective of the overview is to summarize, compile, and bring up-to-date all previously recorded cultural resource information for a specific area, and to assemble in one place information on all known properties investigations, evaluations, and publications. It should provide the starting point for future cultural resource investigations and a framework for evaluating cultural resources identified through inventory. In addition it should include sufficient information to develop research designs for future work and to construct inventory plans which consider the potential for locating cultural resources in the area. The overview should contain the following:

1. Statement of purpose and specific objective;

2. Documentation of sources consulted;
3. Description of cultural resource information;
4. Description of existing or planned investigations in, or adjacent to, the area which focus on cultural resource problems and interests;
5. Identification of knowledge inadequacies;
6. Summary;
7. References.

A minimal overview report shall include the checking of all available sources such as Forest Service and State inventory information, State historic preservation plans, SHPO, published lists of National Register and eligible properties, museum and university records, Forest Service records, published and unpublished reports, archeological and historical society records, individuals likely to be knowledgeable about local resources, and other similar sources.

2361.22 Survey. Three levels of intensity of survey are recognized:

1. *Sample Survey.* This is statistically controlled sampling of an area designed to provide predictive information regarding cultural resource location, density, type and importance. The design of the sample must be professionally sound and the work carried out according to research design standards. It is not necessary for a sample survey to provide sufficient data to locate all cultural resources within the project area or meet compliance requirements in every case. This approach is useful to:
a. Estimate cultural resource potential in an area;
b. Estimate inventory and mitigation costs;
c. Provide a basis for project design and land management planning;
d. Provide estimates of the present and potential impacts upon cultural resources by proposed projects or plans and determine measures needed to mitigate such impacts;
e. Determine the most effective methods for investigating the area for cultural resources;
f. Provide a basis for enhancement and interpretation plans;
g. Provide a basis for cultural resource protection.

2. *Reconnaissance.* This type of survey is developed according to professional judgement regarding possible location of cultural sites. It is based on knowledge of the area including topography, soils, hydrology, climate and the relation of those factors to land use by human populations. The design of the sample must be professionally sound, and the work carried out to standards outlined in the research design. This level of inventory generally will not provide sufficient data to locate all cultural resources within a project area, nor will it meet compliance requirements. Reconnaissance is useful to:
a. Validate judgments regarding site distribution and site type;
b. Provide a basis for designing future cultural resource inventories;
c. Determine the most effective methods for investigating an area for cultural resources;
d. Answer specific questions about cultural resource distribution and early land use;
e. Provide information useful for purposes of interpretation;
f. Provide data relevant to site condition, vandalism and erosion.

3. *Complete Survey.* An investigation of the entire project area that will result, to the extent practical, in the discovery of all locatable cultural resources. This level of inventory is sufficient for determining impacts which may be expected to result from a specific undertaking.

Coverage of an area may be limited by factors of vegetation, terrain, and other obstacles. In such cases, the report will indicate those areas not investigated and the reasons they were bypassed.

The following information should be included in the final report for every field inventory. Collection of these data will aid in determining actual costs and in making future contracting more cost-effective at all levels. This information should be used for evaluating future proposals and for writing future cost estimates.
a. Total number of acres inventoried.
b. Total number of acres within project area not inventoried.
c. Total number of person-days expended.
d. Number of acres inventoried per person per day.
e. Itemization of total costs necessary to complete survey.
f. Costs per acre inventoried.
g. Intensity of sample (for instance, total, or 20 percent sample).

2361.23 Data Storage. Each Region should develop a system to be used for storage and retrieval of site information collected as a result of inventory. The Recreation Information Management System (RIM) will be used for storage and retrieval of information relevant to National Register sites (FSH 2309.11).

2361.3 Compliance Procedures. At the earliest stages in the planning process, concurrent and integrated with consideration of other potential environmental impacts, the Forest shall initiate measure to ensure compliance with the National Historic Preservation Act and Executive Order 11593. All phases of the compliance process will be coordinated as closely as possible with the requirements of NEPA and shall be documented in the Environmental Assessment (EA) or Environmental Impact Statement (EIS).

Cultural resource specialists will be used in planning and implementing the compliance process, and will advise the responsible official in decisions affecting cultural resources. The SHPO will be consulted as required by ACHP regulations to facilitate coordination with the State plan and to assure understanding of State cultural resource management objectives. The SHPO is an excellent source of information and can be an important aid in the process.

Compliance requirements will vary somewhat depending upon the type of undertaking involved.

2361.31 Types of Forest Service Undertaking. Forest service undertakings subject to compliance procedures may be divided into five types, as defined in these procedures, based on the level of Federal involvement. The compliance procedures detailed for Type I undertakings generally are applicable to other types of undertaking as well. Differences in procedures occur chiefly in regard to:
1. level of inventory;
2. degree of involvement of ACHP;
3. sharing of responsibility and funding by cooperators. Nevertheless, once eligible resources are identified, the general compliance procedures are the same for any type of undertaking in which the Forest Service participates. Although the task or funding for it may be shared, ultimate responsibility lies with the Forest Service.

1. *Type 1 Undertakings:* Actions, activities and programs directly undertaken by Forest Service, including but not limited to: (a) Forest Service initiated and funded activities on National Forest System lands (for example, timber sales, road construction, wilderness and wild and scenic river management, campground construction, mineral removal, structure removal, land exchange); (b) Forest Service initiated and funded activities on non-National Forest System lands (for example, easements); (c) Forest Service initiated permits on National Forest Systems lands (for example, concessions); (d) Forest Service initiated research on National Forest System and other lands (FSM 2361.32).

2. *Type of Undertakings:* Actions and activities undertaken with others on National Forest System and other lands

(for example, cooperative projects, cost-share projects) (FSM 2361.33).

3. *Type 3 Undertakings:* Actions and activities initiated and undertaken by others, but authorized by the Forest Service through issuance of special use permits, licenses, leases, or easements (for example, rights-of-way, special use permits) (FSM 2361.34).

4. *Type 4 Undertakings:* Actions and activities and programs undertaken by others but supported in part by the Forest Service—principally State and Private Forestry—through technical assistance, financial support, advice, counsel or approval (for example, input into, State plans, general forestry assistance in the State and private sectors) (FSM 2361.35).

5. *Type 5 Undertakings:* Forest Service land management plans including congressionally initiated studies for legislative proposals (for example, Wild and Scenic River Studies, Wilderness Studies, Forest land management plans, National Recreation Area Studies) (FSM 2361.36).

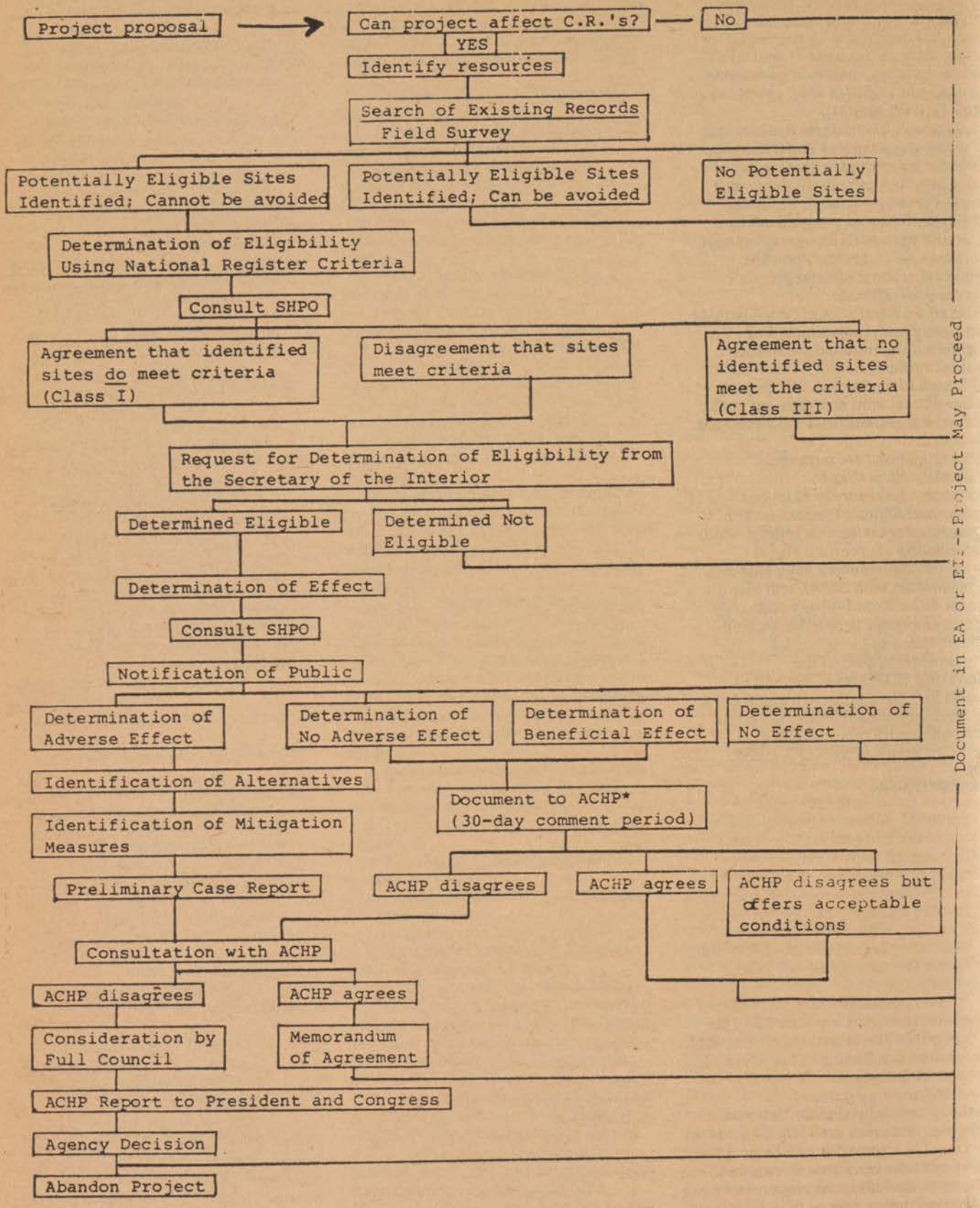
2361.32 Type 1 Undertakings.

2361.32a Flow Chart.

2361.32b Inventory of National Register and Eligible Properties. The responsible Forest Service official, with input from the appropriate Forest Service cultural resource specialist and in consultation with SHPO, will identify or cause to be identified any National Register or eligible properties located within the area of the potential environmental impact of the undertaking. SHPO must respond to requests for consultation within 30 days. This inventory should be carried out in coordination with other resource inventories required by NEPA (FSM 1950).

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2361.32a Flow Chart



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Generally, survey carried out for purposes of compliance will be funded by project funds of the benefiting activity. Thus, inventory for timber sales, for instance, will be financed from the timber budget.

1. *Search of Existing Records.* The responsible Forest Service official shall consult the National Forest cultural resource overview, if available, and sources used in compiling overview data (FSM 2361.21). As appropriate, other records, individuals and organizations should be contacted to determine known cultural resources and the likely distribution of undiscovered cultural resources within the area. Forest Service field personnel often are an outstanding source of information about site location. Effort should be made to identify such individuals, and to seek information from them relevant to the local resources.

2. *Field Survey.* Once the known data have been collected, the responsible Forest Service official shall evaluate them to determine what further investigations are required. Such investigations may include a cultural resource field survey of all or parts of the environmental impact area if the area has not been adequately surveyed previously.

Intensity of survey shall be based on reasonable effort, considering,

a. The type of undertaking,

b. Types of resources potentially involved,

c. Likelihood of encountering National Register or eligible properties in the impact area.

d. Recommendations of SHPO.

Either complete coverage surveys or less-intensive sample or reconnaissance surveys may be determined appropriate in a particular situation. When sample surveys indicate the presence of additional cultural resources within the area of the undertaking's potential environment impact, further survey should be undertaken to adequately identify those resources. Information copies of all survey reports should be forwarded to the SHPO.

2361.32c Identification of Potentially Eligible Properties Prior to SHPO Consultation.

1. If no potentially eligible National Register resources are identified, the responsible Forest Service official shall document this finding in the EA or EIS and send the report to SHPO. The undertaking may proceed.

2. If potentially eligible National Register resources are identified, but an acceptable alternative can be adopted to remove the resources from impact (for example, excluding the resources from a proposed timber sale or land exchange), the potential for adverse impact will no longer exist. The responsible Forest Service official shall document this in the EA or EIS and send the report to the SHPO. The undertaking may proceed. However, Forest Service responsibilities under Executive Order 11593 include indentification and evaluation of all sites on lands administered by the Forest Service, whether or not they are threatened by a Federal undertaking. Sites which are identified and avoided should be evaluated and nominated to the National Register if considered eligible. This procedure has no effect on the project if an avoidance alternative is followed, and may take place after the undertaking has been completed.

3. If potentially eligible National Register resources are identified, and an acceptable alternative is not readily available to remove the resources from the area of potential environmental impact, the responsible Forest Service official shall proceed to formally determined their eligibility (FSM 2361.32d).

2361.32d Determination of National Register Eligibility with SHPO Consultation.

The responsible Forest Service official, with direct input from the appropriate Forest Service cultural resource specialist, and in consultation with SHPO shall apply the National Register criteria which follow to all potentially eligible properties within the area of the undertaking's potential environmental impact.

1. *National Register criteria.* The quality of significance in American history, architecture, archeology, and culture is present in districts, sites, buildings, structures, and objects of State, local, Regional and National importance that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

a. That are associated with events that have made a significant contribution to the broad patterns of our history;

b. That are associated with the lives of persons significant in our past;

c. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

d. That have yielded, or may be likely to yield, information important in prehistory or history.

2. *Criteria considerations.* Ordinarily, cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

a. A religious property deriving primary significance from architectural value, or which is the surviving structure most importantly associated with a historic person or event;

b. A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event;

c. A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his or her productive life;

d. A cemetery which derives its primary significance from graves of persons of transcedent importance, from age, from distinctive design features, or from association with historic events;

e. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived;

f. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance;

g. A property achieving significance within the past 50 years if it is of exceptional importance;

h. Properties important in the history of the Forest Service including, but not limited to, fire towers, cabins, trails, ranger stations, dwellings, and other administrative and recreational facilities.

Additional study or professional archeological testing may be necessary to gather information sufficient for evaluation. The responsible Forest Service official shall consult with SHPO regarding National Register eligibility.

3. *Decision regarding eligibility by the responsible Forest Service official with SHPO consultation.* Unless otherwise agreed upon, the SHPO must respond to a request by the responsible Forest Service official for consultation within 30 days. If SHPO fails to respond within

30 days, the responsible Forest Service official may proceed with the review process.

a. *Agreement that no identified property meets the criteria.* If the responsible Forest Service official and the SHPO agree that no identified property meets the eligibility criteria, the responsible Forest Service official shall document this determination in the EA or EIS. The undertaking may proceed.

b. *Agreement that identified property meets the criteria.* If the responsible Forest Service official and the SHPO agree that a property is eligible, they shall document this in the EA or EIS, submit complete documentation for request for determination of eligibility to the Secretary of the Interior, and proceed with the compliance procedures to protect the eligible property.

c. *Disagreement that identified property meets the criteria.* If the responsible Forest Service official and the SHPO disagree regarding a property's eligibility, the responsible Forest Service official shall submit a request for determination of eligibility directly to the Secretary of the Interior including a copy of SHPO opinion in accordance with procedures described in FSM 1020 (36 CFR Part 63).

The opinion of the Secretary shall be conclusive.

2361.32e Informing the Public.

Public participation, an important part of planning, shall begin at the earliest stages and continue throughout the planning process. Public involvement shall be carried out simultaneously to meet the requirements of cultural resource protection, American Indian Religious Freedom Act, flood plains or wetlands protection (Executive Order 11998), protection of threatened or endangered species, and NEPA compliance. The intent is to provide sufficient information early enough in the decisionmaking process so that the public has the opportunity to be meaningfully involved. The Forest Service shall follow procedures for public involvement outlined in FSM 1950.

The responsible Forest Service official shall consult with American Indian native leaders about any activity which potentially may infringe upon their religious freedom. Such consultation, which is required by the American Indian Religious Freedom Act (FSM 1020), may take place separately from or in connection with other Public Involvement activities.

2361.32f Determination of Effect.

For each National Register or eligible property located within the area of the undertaking's potential environmental impact, the responsible Forest Service official in consultation with SHPO, shall determine whether the undertaking will affect cultural resources. Effect occurs when any condition of the undertaking causes or may cause any change, either beneficial or adverse, in the quality of a property that qualifies it for inclusion in the National Register (FSM 2361.05).

1. *Criteria of Adverse Effect.* If effect is established, the responsible Forest Service official shall apply the following Criteria of Adverse Effect:

a. Destruction or alteration of all or part of a property;

b. Isolation from or alteration of its surrounding environment;

c. Introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting;

d. Transfer or sale of a Federally owned property without adequate conditions or restrictions regarding preservation, maintenance, or use;

e. Neglect of a property resulting in its deterioration or destruction.

The responsible Forest Service official shall seek to identify both beneficial and adverse effects, which may be actual or potential, direct or indirect, or short- or long-term in nature. All potential effects shall be considered in arriving at a determination of total effect. The responsible Forest Service official shall submit an opinion on the undertaking's effect on National Register or eligible properties to the SHPO for comment, and shall proceed as follows:

2. *Determination of No Effect.* If the responsible Forest Service official and SHPO agree that the undertaking will not affect the qualities for listing in the National Register of any property present in the area of the undertaking's potential environmental impact, this determination shall be documented in the EA or EIS. A copy of the SHPO's comments shall be included in the report. The undertaking may proceed.

3. *Determination of Beneficial Effect.* If the responsible Forest Service official and SHPO agree that the action will enhance the qualities of the property that qualify it for inclusion in the National Register, the responsible Forest Service official will proceed as in Determination of No Adverse Effect.

4. *Criteria for Determination of No Adverse Effect.* If the responsible Forest Service official and the SHPO agree that the undertaking will have no adverse effect on the significant qualities of National Register or eligible properties, the responsible Forest Service official shall submit appropriate documentation on this determination to the ACHP.

a. *Documentation of No Adverse Effect.* This will include a copy of the EA or EIS if available for review with a cover letter requesting Council comment under Section 106 of the National Historic Preservation Act. The ACHP must notify the responsible Forest Service official within 15 days if documentation is not complete, must respond within 30 days of receipt of adequate documentation. Documentation shall include the following information as specified by the ACHP:

1. A description of the Forest Service involvement with the proposed undertaking, with legal citations of the Forest Service program authority, applicable implementing regulations, procedures, and guidelines;

2. A description of the proposed undertaking including, as appropriate, photographs, maps, drawings, and specifications. (In the case of restoration and rehabilitation proposals, the best available drawings and specifications should be provided);

3. A list of National Register eligible or potentially eligible properties that will be affected by the undertaking, including a description of the property's physical appearance and significance;

4. A brief statement explaining why each of the Criteria of Adverse Effect (FSM 2361.32f.) was found inapplicable;

5. Written views of the SHPO concerning the determination of no adverse effect;

6. An estimate of the cost of the undertaking, identifying Federal and non-Federal shares.

b. *Data Recovery as No Adverse Effect.* In circumstances where a property (generally a sub-surface site) is significant primarily because it has "yielded, or may be likely to yield, information important in prehistory or history," data recovery may, under some circumstances, be considered to have no adverse effect on the property. In such cases, the following ACHP guideliens for no adverse effect should be used.

1. Disturbance of such resources should be avoided wherever possible.

2. Data recovery may be appropriate, however, when properties are primarily significant for the data they contain and when this data can be retrieved in accordance with professional standards.

3. The goal of archeological data recovery must be to obtain the greatest amount of archeological data for the least amount of archeological resource destruction.

4. In-place preservation of archeological resources should be examined as a cost-effective alternative to data recovery.

5. Methods destructive of data or injurious to the natural features of the

property should not be employed if nondestructive methods are feasible.

(c) *Criteria for decision to consider excavation as not adversely effecting a cultural property.* 1. The property is not a National Historic Landmark, a National Historic Site in non-Federal ownership, or a property of national historical significance so designated within National Park Service;

2. The SHPO has determined that in-place preservation of the property is not necessary to fulfill purposes set forth in the State Historic Preservation Plan;

3. The SHPO and the responsible Forest Service official agree that the property has minimal value as an exhibit in place for public understanding and enjoyment;

4. The SHPO and the responsible Forest Service official agree that, above and beyond its scientific value, the property is not known to have historic or cultural significance to a community, ethnic, or social group that would be impaired by the retrieval of data;

5. The SHPO and the responsible Forest Service official agree that currently available technology is such that the significant information contained in the property can be retrieved;

6. Funds and time have been committed to adequately retrieve the data.

d. *Data recovery requirements.*

1. Data recovery will be conducted under the supervision of a professional archeologist who meets the qualifications set forth in 36 CFR 61.5 (FSM 1023).

2. Data recovery will be conducted in accordance with professional standards.

3. A date has been set for the completion of the final report.

4. Plans have been made for disposition of the material recovered after it has been analyzed.

5. Documentation of the condition and significance of the property after data recovery will be provided by the responsible Forest Service official to the SHPO and the National Register for appropriate action (including nomination, boundary change, or removal of National Register or eligibility status in accordance with National Register procedures).

If the ACHP does not object to the determination of No Adverse Effect, if the ACHP objects but offers conditions which are accepted by the responsible Forest Service official, or if the ACHP does not respond within 30 days, the Forest Service official shall document this concurrence in the EA or EIS, with copies of the SHPO's comments and ACHP's comments. The undertaking may proceed.

Either the SHPO or the ACHP may object to the determination of No Adverse Effect, specifying the basis for their objection with documentation of professional evaluation. If the SHPO does not agree with a determination of No Adverse Effect, or if the ACHP objects to the determination within 30 days of notification, the responsible Forest Service official shall proceed as for a Determination of Adverse Effect.

5. *Determination of Adverse Effect.* If the responsible Forest Service official and the SHPO determine that the undertaking will have an Adverse Effect on qualities that make a property eligible for the National Register, and if no suitable alternative is available which would avoid the potential to adversely impact the resources present, the responsible Forest Service official shall notify the ACHP of this determination and proceed with identification of alternatives and mitigation measures. The public shall be notified of the potential for Adverse Effect on National Register or eligible properties through circulation of the EA or EIS, or through other notification as deemed appropriate by the responsible Forest Service official. Until the consultation process is completed, no action shall be taken that could result in Adverse Effect to the properties under consideration or that would foreclose the consideration of modifications or alternatives to the proposed undertaking that could avoid, mitigate, or minimize potential Adverse Effects.

2361.32g Identification of Alternatives.

The responsible Forest Service official shall identify alternatives which would avoid or have less potential for adverse effect. Alternatives shall include, but not be limited to:

1. Relocation of the Undertakings. Alternative sites for the undertaking should be identified which would remove the potential for adverse effect.

2. Alternative Designs. There may be alternative designs, plans, or concepts which could be incorporated into the proposed undertaking which would avoid or reduce potentially adverse effect. Examples include the redesign of a timber sale or rerouting of a section of a road.

3. Alternative Undertakings. Alternative undertakings should be identified which would accomplish similar objectives but with reduced or no potential for adverse effect. Examples include expanding an already existing campground or improving an existing road rather than constructing a new one.

4. No Action. No action, or abandonment of the undertaking also shall be identified as an alternative.

2361.32h Identification of Mitigation Measures.

For the proposed undertaking and for each alternative identified which involves potential for adverse effect, the responsible Forest Service official shall seek to develop mitigation measures to further minimize the potential to do harm. Examples include, but are not limited to:

1. Limiting the size or scale of the undertaking and alternatives;

2. Modifying certain aspects or details of the undertaking and alternatives through redesign, reorientation, alteration of construction methods;

3. Monitoring the undertaking to minimize potential for direct adverse impact;

4. Rectifying potentially adverse effects by providing for reconstruction, repair, rehabilitation, or restoration of the affected resources and providing for continued preservation and maintenance;

5. Compensating for potentially adverse effects through data recovery and preservation of scientific, prehistoric, historic and archeological data.

6. Accepting that there are no prudent and feasible alternatives that could avoid or satisfactorily mitigate the adverse effects, and agreeing with all consulting parties that it is in the public interest to proceed with the proposed undertaking (36 CFR 800.6b6).

2361.32i Submission of Preliminary Case Report.

In those cases where it is determined that there are National Register or eligible properties which may be adversely affected by a Forest Service undertaking, the responsible Forest Service official shall compile the required documentation for a Preliminary Case Report. This shall include the following:

1. A description of the Forest Service involvement with the proposed undertaking with citations of the Forest Service program authority and applicable implementing regulations, procedures, and guidelines;

2. The status of this project in the Forest Service approval process;

3. The status of this project in the Forest Service NEPA compliance process and the target date for completion of all environmental responsibilities;

4. a description of the proposed undertaking including, as appropriate, photographs, maps, drawings, and specifications;

5. a description of the National Register or eligible properties affected by the undrtaking, including a description of the properties' physical appearance and significance;

6. A brief statement explaining why any of the Criteria of Adverse Effect (FSM 2361.32f) apply;

7. Written views of the SHPO concerning the effect on the property, if available;

8. The views of other Federal Agencies, State and Local governments, and other groups or individuals, when known;

9. A description and analysis of alternatives that would avoid the adverse effects;

10. A description and analysis of alternatives that would mitigate the adverse effects; and,

11. An estimate of the cost of the undertaking, identifying Federal and non-Federal shares.

The Preliminary Case Report shall be submitted through the Chief to the Office of Environment Quality, Secretary of Agriculture (OEQ) and ACHP with a request for review and comment. A copy of the report and request for ACHP comments shall be forwarded to the SHPO.

The Forest Service will provide the ACHP with copies of all Environmental Impact Statements prepared pursuant to NEPA. The responsible Forest Service official shall include a cover letter to ACHP with the EIS indicating that the EIS constitutes a request for Council comment if that is the case.

2361.32j Consultation Process.

The responsible Forest Service official shall proceed with the ACHP consultation process, and may, as part of that process, request an On-Site Inspection or Public Meeting.

1. *Agreement on Mitigation Measures—Memorandum of Agreement.* If agreement can be reached on an acceptable altrnative or on mitigation measures to minimize the Adverse Effect of the proposed undertaking, or if all consulting parties agree that it is in the public interest to accept the Adverse effect, the responsible Forest Service official shall prepare a proposal for a Memorandum of Agreement (MOA), and participate with ACHP, SHPO, and other interested parties as appropriate, in its execution. The Chairman of ACHP has 30 days within which to either sign the MOA or refer it to the full Council. If the Chairman does not act within that time period, the agreement becomes final upon the expiration of the 30-day period. Unless the MOA is referred to the full Council, the MOA shall be included in the final EIS report and the undertaking may proceed.

2. *Disagreement on Mitigation Measures—Full Council Consideration.* If agreement cannot be reached, the undertaking may be considered at a full Council or panel meeting. In this event, the Chief shall consult with the Director of OEQ. The Forest Service official initially responsible for the undertaking shall prepare the final case report for review by the Chief, the OEQ and the ACHP, including:

a. A general discussion and chronology of the proposed undertaking;

b. An account of the steps taken to comply with NEPA;

c. Any relevant supporting documentation in studies that the Forest Service has completed;

d. An evaluation of the effect of the undertaking upon the property, with particular reference to the impact on the historical, architectural, archeological, and cultural values;

e. Steps taken or proposed by the Forest Service to avoid or mitigate adverse effects of the undertaking;

f. A thorough discussion of alternate courses of action; and

g. An analysis comparing the advantages resulting from the undertaking with the disadvantages resulting from the adverse effects on National Register or eligible properties. The Forest Service official initially responsible for the undertaking shall arrange for the submission and presentation of any report by a grantee, permittee, licensee, or other party receiving Federal assistance or approval to carry out the undertaking.

The Chief, in consultation with the OEQ, shall prepare or cause to be prepared an oral statement for the meeting. Following the meeting, the ACHP will submit written comments on the undertaking to the Chief and the OEQ, and will forward the comments to the President and Congress as a special report.

2361.32k Agency Decision.

The Chief shall take the Council's comments into account in reaching a decision on the undertaking. When a final decision is reached, the Chief shall submit a written report to the OEQ. This report then will be submitted by the OEQ Director to the ACHP, and will describe:

1. The actions taken by the Forest Service in response to the Council's comments;

2. The actions taken by other parties pursuant to the actions of the Forest Service; and

3. The effect that such actions will have on the affected National Register or eligible property.

Receipt of this report by the ACHP shall be evidence that the Forest Service has satisfied its reponsibilities for the proposed undertaking. The undertaking may proceed if that is the decision of the Chief.

2361.321 Implementation of Mitigation Measures.

The responsible Forest Service official shall ensure that all mitigation measures agreed to during the consultation process are funded and properly carried out. Mitigation measures involving data recovery shall be carried out in accordance with the Historical and Archeological Data Preservation Act of 1974 (FSM 1020). Within 90 days after carrying out the terms of the MOA, the responsible Forest Service official shall report to all signatories on the actions taken.

Funding for survey and mitigation shall be provided by the benefiting activity so that, for instance, mitigation necessitated as a result of a timber-related undertaking shall be supported by the timber budget. The Forest Service has the responsibility to ensure that all mitigation measures formulated during the decisionmaking process are funded and carried out at least concurrently and proportionally with other elements of the undertaking as defined in the project plan.

2361.33 Type 2 Undertakings.

In the case of an activity undertaken with others, the Forest Service has compliance responsibility when Forest Service participation constitutes the only Federal involvement. Tasks or costs related to identification, evaluation, and mitigation may be shared by the cooperating parties commensurate with sharing of other costs.

If other Federal Agencies are involved in the undertaking, a "lead Agency" should be established for purposes of compliance with both the National Historic Preservation Act and NEPA. Tasks or costs related to cultural resource identification, evaluation, and mitigation may be shared.

Review and consultation with the SHPO and the ACHP shall proceed in accordance with the compliance procedures for Type 1 undertakings.

2361.34 Type 3 Undertakings. The Forest Service has responsibility to ensure the identification, evaluation, and mitigation of adverse effects to cultural resources on all National Forest System lands that are under permit, license, or other authorization.

The Forest Service has responsibility to ensure that National Register or eligible properties, even those not on National Forest System lands, which may be directly or indirectly affected by the undertaking are adequately considered in the decision process.

1. *Information requirements.* The Forest Service must have available sufficient information to identify and evaluate the direct and indirect effects which may result from granting the permit or other authorization. Only in this way is it possible to make an intelligent and informed decision. The applicant may be required to provide the necessary information at the direction of the Forest Service using, whenever available, such existing information as State plans and Forest overviews and management plans. The responsible Forest Service official may require non-Federal parties to satisfactorily identify, evaluate, or mitigate adverse effects to cultural resources as a prerequisite to approval of the authorization, but ultimate responsibility for compliance rests with the Forest Service.

The extent and level of information required depends upon what is reasonable for a particular project, but must meet the needs for sound decisionmaking. The level of information must be determined on a case-by-case basis dependent upon a number of variable factors, including, but not limited to the following:

a. The nature of the decision;

b. The level of Federal involvement;

c. Stated interest of the affected State(s);

d. Compatibility of the project with long-range interests;

e. Costs of collecting the information;

f. The degree of ground disturbance expected to result from the project;

g. Quantity and location of sites which are on or have been determined eligible for the National Register;

h. Quantity and importance of cultural resources potentially involved;

i. Probability and magnitude of indirect effects on any lands impacted as a result of Forest Service permit.

2. *Coordination requirements.* Such information requirements and the ultimate decision on the permit must be coordinated with:

a. The information gathering and decisionmaking for the NEPA process;

b. The lead Agency on the project as determined under the NEPA compliance process (if other than the Forest Service) and other agencies with interest in the project;

c. The SHPO and other representatives of State and local government.

3. *Decisionmaking.* Once the responsible Forest Service official has sufficient information to make an intelligent and informed decision regarding the issuance of a permit, the official may decide to place conditions on the approval of that permit. The applicant may be required to accept reasonable conditions for the protection of cultural resources on Federal and non-Federal lands if such conditions are considered necessary by the responsible Forest Service official.

The following information will be included in the criteria used in making the final decision on whether or not to issue a permit:

a. Effect(s) on cultural properties;

b. Ability to mitigate effects on cultural properties;

c. Availability of alternatives, and environmental and economic consequences of alternatives; and

d. Compatibility of the project with long range interests.

Review and consultation with the SHPO and the ACHP shall proceed in accordance with the compliance procedures for Type 1 undertakings.

2361.35 *Type 4 Undertakings.*

The Forest Service is responsible for identifying the need to consider cultural resources which may be affected as a result of technical assistance to States and private parties.

1. *In cases in which the Forest Service provides funds which are used to train planners who prepare State Forest Resource Plans, cultural resource compliance will:*

a. Include cultural resource orientation and understanding in the training program for planners. Such training will include emphasis on the value and identification of the resource, understanding of the compliance process, and knowledge of protection alternatives;

b. Establish a strong communications link between the SHPO and State Forester to aid both in coordinating their programs;

c. Provide models and guidelines to State Foresters to ensure that State Forestry plans address cultural resource concerns.

2. *In cases in which funds are allocated by State and Private Forestry for forestry assistance to the State, the Forest Service will provide technical assistance to the State Forester as needed to:*

a. Train personnel in cultural resource values, identification, and protection; and

b. Provide literature on historic preservation laws and regulations, values, protection and other cultural resource information.

3. *In cases in which the Forest Service allocates funds for forestry assistance to the State, the State Forester should:*

a. Train personnel in cultural resource values, identification, and protection;

b. Make literature on cultural resource protection available to private forest landowners;

c. Notify SHPO of cultural resource values found on private forest land; and

d. Establish communications with the SHPO to facilitate coordination of their programs.

2361.36. *Type 5 Undertakings.*

2361.36a. *Land Use Plans.* Forest plans shall require identification of cultural resources commensurate with the level of inventory conducted for other resources. Under the National Forest Management Act regulations, 36 CFR 219 (FSM 1920), each Forest Plan must address cultural resource considerations.

1. Each Forest plan will:

a. Provide an overview of known data relevant to history, ethnography, and prehistory of the area under consideration, including known cultural resource sites;

b. Identify areas requiring more intensive inventory;

c. Provide for evaluation and identification of sites for the National Register of Historic Places;

d. Provide measures for the protection of cultural resources from vandalism and other human depredation, and natural destruction;

e. Identify the need for maintenance of prehistoric and historic sites on, or eligible for inclusion in, the National Register of Historic Places; and

f. Identify opportunities for interpretation of cultural resources for the education and enjoyment of the American public.

2. In the formulation and analysis of alternatives, interactions among cultural resources and other multiple uses shall be examined. This examination shall consider impacts of the management of cultural resources on other uses and activities and impacts of other uses and activities on cultural resource management.

3. Development and evaluation of program alternatives will be coordinated to the extent feasible with the State cultural resource plan and planning activities of the SHPO and State Archeologist, and with other State and Federal agencies.

2361.36b. *Council Comment on Plans.* Forest Land Management Plans, and Regional Plans which do not directly authorize or result in activities that may have an effect on properties included in or eligible for inclusion in the National Register will not be subject to review by the ACHP in accordance with the ACHP procedures.

Project Plans which authorize land disturbing activities that may have an effect on properties included in or eligible for inclusion in the National Register of Historic Places will be

subject to review in accordance with ACHP compliance procedures.

Pursuant to its Procedures, the ACHP may comment on any Regional Plan, Forest Land Management Plan, or Project proposal that, in its judgement, may have an effect on properties included in or eligible for inclusion in the National Register.

2361.36c. *Wilderness.* Recommendation of an area for wilderness designation does not, in and of itself, constitute an Adverse Effect on cultural resources within the area (FSM 2323.8). Cultural resources in wilderness may be inventoried, evaluated, studied, excavated and maintained, using techniques compatible to wilderness. Actions that may effect cultural properties in wilderness that are on or eligible for the National Register (including the decision to allow an individual property to deteriorate) are subject to the same management decisions and compliance procedures required for all Type I undertakings.

Review and consultation with the SHPO and the ACHP shall proceed in accordance with the compliance procedures for Type I undertakings.

2361.37. *Resources Discovered During Construction.* If, following completion of inventory and all other compliance responsibilities and initiation of the undertaking, previously unidentified cultural resources are identified which will be adversely impacted by the undertaking, the responsible Forest Service official may elect to follow one of the two expedited procedures outlined below. If these procedures are not followed, the responsible Forest Service official shall proceed with ACHP compliance procedures for a Type 1 undertaking.

2361.37a Procedure.

1. To the maximum extent possible, the responsible Forest Service official shall redirect work on the undertaking so that it will not impact the resources. Contracts and agreements authorizing projects which will be performed by other than Forest Service employees should contain a clause requiring that the project be halted or redirected in the event that cultural resources are discovered. Other work or work in areas that will not effect the resource may continue.

2. The responsible Forest Service official shal immediately obtain from the appropriate cultural resource specialist an evaluation of significance of the site and determination of potential impacts to eligible properties.

3. The responsible Forest Service official shall immediately initiate consultation with the SHPO regarding eligibility of the site to meet the National Register criteria. Such consultation should be initiated by telephone or in person, and documented in writing.

a. If both agree that the site is not eligible, they shall document that decision. The undertaking may proceed.

b. If one or both considers the site eligible, that determination shall be documented and a formal request for Determination of Eligibility immediately sent to the Secretary of the Interior (FSM 2361.32c). The responsible Forest Service official may proceed with protection and mitigation as if the site had been determined eligible.

4. When eligible properties are identified, the responsible Forest Service official shall consult with SHPO on the determination of effect. Consultation should be initiated by telephone or in person, and documented in writing.

a. If both agree that there will be no effect to the property, they shall document that decision. The undertaking may proceed.

b. If one or both considers that the undertaking will affect the eligible property, they shall identify appropriate mitigation measures.

5. If the responsible Forest Service official and the SHPO agree on appropriate mitigation measures, they shall immediately notify ACHP by telephone or in person, and document the decision in writing.

6. If the ACHP agrees with the mitigation measure proposed as a result of Forest Service and SHPO concurrence, they shall document that in a Memorandum of Agreement. Once the mitigation has been satisfactorily completed, the undertaking may proceed. Within 90 days after carrying out the terms of the mitigation, the responsible Forest Service official shall prepare a report to all signatories on the actions taken.

7. In accordance with the Historical and Archeological Data Preservation Act of 1974 (FSM 1020), the Chief has the option to transfer responsibility for mitigation and recovery to the Secretary of the Interior. Because the Forest Service has appropriate expertise to handle such matters in most cases, this option will rarely be used. Requests and justification should be submitted by the responsible Forest Service official to the Chief for decision.

2361.37b Alternate Procedure.

1. To the maximum extent possible, the responsible Forest Service official shall redirect work on the undertaking, so that it will not impact the resources. Contracts and agreements authorizing projects which will be performed by other than Forest Service employees should contain a clause requiring that the project be halted or redirected in the event that cultural resources are discovered. Other work or work in areas that will not affect the resource may continue.

2. The responsible Forest Service official shall immediately obtain from the appropriate cultural resource specialist an evaluation of the significance of the site and determination of potential impacts to eligible properties.

3. The responsible Forest Service official shall immediately initiate consultation with the State Historic Preservation Officer regarding eligibility of the site to meet the National Register criteria. Such consultation should be initiated by telephone or in person, and documented in writing.

a. If both agree that the site is not eligible, they shall document that decision. The undertaking may proceed.

b. If one or both considers the site eligible, that determination shall be documented and a formal request for Determination of Eligibility immediately sent to the Secretary of the Interior (FSM 2361.32c). The responsible Forest Service official may proceed with protection and mitigation as if the site has been determined eligible.

4. The responsible Forest Service official shall consult with the Secretary of the Interior and comply with the requirements of the Archeological and Historic Preservation Act (16 U.S.C. 2469 (a)) as implemented by the Secretary.

5. Unless the Secretary of the Interior determines that the significance of the property, the effect, and any proposed mitigation warrant Council consideration, compliance with the requirements of the Archeological and Historic Preservation Act will fulfill Forest Service responsibilities under Section 106 in such cases.

6. If the Secretary determines that the undertaking warrants Council consideration, the Council shall comment within 30 days pursuant to 36 CFR 800.7(b).

7. In accordance with the Archeological and Historic Preservation Act, the Chief has the option to transfer responsibility for mitigation and recovery to the Secretary of the Interior. Because the Forest Service has appropriate expertise to handle such matters in most cases, this option will rarely be used. Requests and justification should be submitted by the responsible Forest Service official to the Chief for decision.

2361.4 Recovery and Curation.

2361.41 Recovery. Generally, the conservation ethic requires that effort be made to preserve cultural resources in

the ground where they were deposited. However, recovery of cultural resource material through excavation based on a valid research design is one acceptable use of the resource. Such a recovery program must be coordinated with the Forest land management plan.

Except when acting as an agent for the Forest Service, institutions or agencies conducting recovery projects on National Forest System lands will obtain a special use permit in accordance with FSM 2726.11.

The granting of a special use permit for recovery is a potentially resource damaging undertaking and is subject to ACHP compliance procedures (FSM 2361.3). In emergencies, a responsible Forest Service official or Cultural Resource specialist may remove or cause removal of cultural properties, but only to avoid imminent loss or destruction. Records will be made of the nature and location of such properties.

2361.42 Investigation Procedures.

1. Data recovery and analysis programs should be conducted in accordance with a professionally adequate recovery plan (research design).

a. The plan shall be prepared by a cultural resource specialist and approved by the appropriate line officer.

b. The plan shall include a definite set of research objectives (taking into account previous relevant research) to be met in analysis of the data to be recovered.

c. The plan shall provide for recovery of a usable sample of data on significant research topics that can reasonably be addressed using the property or a justification for collecting data on a smaller range of topics.

d. The plan shall specify the field and laboratory methods and techniques to be used for recovery of the data contained in the property. Methods destructive of data or injurious to the natural features of the property should not be employed if nondestructive methods are feasible.

2. The data recovery and analysis programs should provide for adequate personnel, facilities, and equipment to fully implement the recovery plan.

3. The data recovery and analysis programs will result in accurate and intelligible records of all field and laboratory observations and operations, including, but not limited to, excavation and recording techniques, stratigraphic and associational relationships, where appropriate, and significant environmental relationships.

4. Adequate provision must be made for modification of the data recovery and analysis plan to accommodate unforeseen discoveries or other unexpected circumstances.

5. Adequate provision must be made for appropriate curation of material collected (FSM 2361.43).

6. Investigative programs will produce a professional quality report detailing the results. As a minimum, the report shall include:

a. Introduction, including background on the project.

b. Environmental, ethographic, historical and archeological background relevant to project area.

c. Research objectives or design.

d. Description of the data recovery operations, both field and laboratory.

e. An explanation of the data analysis.

f. A summary of the results. Include statements describing whether or not research objectives are met. Also, explain additional research objectives resulting from the study.

g. Graphic materials including maps, charts, tables, photographs and illustrations, as appropriate.

h. A list of references consulted and used.

2361.43 Curationship. Cultural resources recovered from National Forest System lands are the property of the United States Government, and will be stored and maintained by an approved institution, or agency, or other designated depository. Records pertaining to cultural resource properties such as those that describe the location of sites, the descriptive and analytical operation, and research results are the property of the Government and will be maintained by the approved universities or depositories. Copies of records will be provided to the Forest Service and to the SHPO.

Guidelines have been developed by HCRS for determining an approved repository, and will be followed by the Forest Service. Approved curatorial facilities must accept the following standards:

1. All specimens, photographs, maps, written documentation, or other data recovered from Federal land are the property of the U.S. Government and must be maintained for the public benefit.

2. The data (including specimens, photographs, maps, and written documentation) will be made available for study to any legitimate researcher upon completion of the contract provisions. If, for discretionary or safety reasons, it is necessary to withdraw all or part of the data from accessibility, the Regional Forester will be advised of the action.

3. The curatorial institution may charge a reasonable fee, on a nondiscriminatory basis, for services and materials necessary for the use of the data by a researcher.

4. With the possible exception of human remains, all the data will be cared for within the control of the same institution. If the institution determines that, in the public interest, a portion is to be loaned to another institution, a detailed record of such materials for loan will be prepared and maintained, along with the conditions of the loan. A copy of the loan agreement will be submitted to the Regional Forester for approval prior to removal of the items.

5. All data will be curated in an orderly fashion, providing ready accessibility to the documents and specimens by staff and/or legitimate researchers.

6. All data, including recovered specimens and other documentation, will be curated so as to stablize or reduce deterioration.

(a) Reasonable protection will be provided against hazards of fire, theft, flood, vandalism, climate, and infestation.

(b) Specimens will be stored to reduce the possibility of damage by breakage, abrasion, temperature extremes, exposure to light, or other deleterious effects.

(c) All data will be monitored at regular intervals to detect conditions leading to damage or loss. Such problems as broken bags, insect damage, and faded accession numbers, will be corrected promptly.

7. If the institution ceases to exist, disposition of the data will be determined by the Regional Forester.

2361.5 Protection.

2364.51 Removal of Cultural Properties. Because the location, abundance, distribution, and nature of cultural resources may be of great importance in evaluating, interpreting, and undrstanding prehistoric and historic human behavior, it is important that the resource be protected in place. Permission to remove cultural properties may be granted only where it has been determined that such removal will not adversely affect the social, historical, or scientific values or where the resource will be destroyed if it is not removed.

2364.52 Protective Measures. Protective measures will vary with individual situations. They may include physical or administrative protection, for instance:

1. Physical protection such as fences, grills, barriers, and other structures. These and other measures that have a physcial effect on cultural properties shall follow compliance procedures

outlined in FSM 2361.3 prior to implementation.

2. Patrol and frequent visitation to properties which are especially vulnerable to vandalism or other damage. Such measures will be coordinated as specified in FSM 5300.

3. Use of signs. Care must be taken, however, to ensure that signs will not be used where they may attract attention (and therefore cause potential damage) to otherwise inconspicuous sites.

4. Development of measures which consider cultural resource managment in other resource management and development programs.

5. Avoidance of identification and publicity about properties susceptible to vandalism. Anonymity of sites, where necessary for their preservation, should be furthered by denial of any requests from the public for locational information. See FSM 6271.2, item 2(c), concerning freedom of Information denials under exemption (b) (5) of the act.

6. Gaining of public understanding and support through education and interpretation.

7. Closing of sites through such administrative actions as land withdrawals and road closures.

2364.53 Disturbance During Project Activity. When cultural resources are disturbed during project construction, further activity which may damage the cultural resource value shall be halted until such disturbance can be mitigated. A cultural resource specialist will make an assessment of the situation and make recommendations for corrective action to be taken.

2361.6 Public Use and Enhancement.

2361.61 Public Use. On-site public use and enjoyment of cultural properties should be encouraged where it can occur without damage to the property. Where practical, recreational values should be enhanced through interpretation, restoration, and other measures.

Cultural properties and records will be available for appropriate public uses. Permits, contracts, and agreements may include provisions specifying availability of cultural properties and records for public use. Public use of records will consider the need to restrict access to location information that could, if inappropriately used, result in damage or destruction of in-place cultural resources. Decisions to withhold records from public use generally should be coordinated with the Freedom of Information Officer on the Administrative Services Staff.

2361.62 Enhancement. Cultural resources should be interpreted for the public benefit. Forest Officers should cooperate with museums, universities, and other recognized institutions, agencies, and knowledgeable persons in planning and constructing cultural resource exhibits involving National Forest System properties. These efforts will be coordinated with Visitor Information Service.

2361.63 Report distribution.

All cultural resource reports which do not contain sensitive locational information shall be made available for distribution to interested publics, professionals, and State and Federal agencies.

As a minimum, all cultural resource inventory, evaluation, mitigation and other reports should be submitted to National Technical Information Service (NTIS). NTIS will store, distribute and promote reports and will include the titles in their bibliographies.

In order to enter documents into their system, NTIS requires either ten copies of each document at the time of registration or a twenty dollar service charge. Such fees should be included in contract or in-service cost estimates.

Reports, payment and NTIS form 272 (or requests for forms and further information) should be sent to:

National Technical Information Service, U.S. Department of Commerce, Pennsylvania Bldg. Suite 620 Dept. DA, 425 13th Street N.W., Washington, D.C. 20004.

2361.64 Bibliography.

Each Region should maintain an accurate and up-to-date bibliography of all reports completed by the Forest Service within the Region, either by contract or in-service personnel. This will eliminate duplication of effort and will make the products of the Forest Service more accessible and usable by the public, other agencies, and the Forest Service.

[FR Doc. 79-28928 Filed 9-17-79; 8:45 am]

BILLING CODE 3410-11-M

federal register

Tuesday
September 18, 1979

Part VII

Environmental Protection Agency

Data Reimbursement Under Sections 4 and 5 of the Toxic Substances Control Act

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 774]

[OTS-48001; FRL 1294-8]

Data Reimbursement Under Sections 4 and 5 of the Toxic Substances Control Act

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: EPA is planning to develop a rule under subsections 4(c)(3), 4(c)(4), and 5(h) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2603, 2604. Those provisions authorize the Administrator of EPA to grant an exemption to any person subject to a testing requirement under section 4(a) or a data submission requirement under section 5(b)(2) if further testing would be duplicative of data that have been submitted or are being developed on an equivalent chemical. If the Administrator grants such an exemption, he is required to order the person granted the exemption to provide fair and equitable reimbursement to the person who conducted the testing in an amount determined under rules of the Administrator unless the parties involved agree on the amount and method of reimbursement. This notice addresses the substantive and procedural issues pertaining to the reimbursement process that are expected to arise in the course of the rulemaking.

DATE: Comments on the issues discussed below or any other issues regarding this rulemaking must be submitted on or before November 19, 1979, in order to ensure their consideration in the development of the proposed rule.

ADDRESS: Written views and comments should bear the document control number OTS-48001 and should be addressed to the Document Control Officer, Office of Toxic Substances (TS-793), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 or submitted to the same official in Room 447, East Tower at the above address, Monday through Friday, 8:30 A.M. to 4:00 P.M. The rulemaking record for this docket is available for inspection in the room mentioned above.

FOR FURTHER INFORMATION CONTACT: Industry Assistant Office, Office of Toxic Substances (TS-799), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telephone (toll-free) 800-424-9065 or in Washington 554-1404.

SUPPLEMENTARY INFORMATION: Part I of this notice summarizes the provisions of TSCA dealing with data reimbursement. Part II discusses EPA's objectives and the purpose of this notice, and Part III discusses the role of industry and the public in the development of this rule. Part IV discusses the major issues EPA has identified thus far, and Part V itemizes the main questions on which EPA requests the public to comment.

I. Summary of TSCA Sections Dealing With Reimbursement

A. Section 4

TSCA section 4(b) requires manufacturers and/or processors of chemical substances and mixtures to conduct tests and submit the resulting data to EPA if such substances or mixtures are subject to testing rules promulgated under TSCA section 4(a). Testing requirements pertaining to a particular chemical generally remain effective for five years following submission of the first data developed pursuant to the rule unless the Administrator repeals the testing rule prior to such date. If the testing rule applies to a category of chemical substances, the expiration date for a particular chemical in a category is governed by the first submission of data for that chemical and not by the first data submission for the category of chemicals.

Any person subject to a testing rule may request an exemption under TSCA section 4(c). The Administrator must approve an application for exemption if he determines that the chemical to which the application pertains is equivalent to one for which data have been or are being developed pursuant to the same testing rule, and that submission of data by the applicant would be duplicative. If he later discovers that persons thought to be developing the required data have not complied with the rule, the Administrator must revoke the exemption after providing written notice and opportunity for hearing to the person who holds the exemption.

Persons receiving exemptions must reimburse those who actually did or who are doing the required testing for a portion of the costs incurred in complying with the rule. This obligation exists for any person who obtains an exemption before the end of the reimbursement period. This period is defined as beginning when data are first submitted and ending after five years or at the expiration of a period of time equal to the time necessary to develop the data, whichever is longer. The rule expires at the end of the reimbursement period.

If the persons submitting the test data and those granted exemptions based on that data cannot agree on the amount and method of reimbursement, EPA must order the person granted the exemption to provide fair and equitable reimbursement. Reimbursement is to be decided on the basis of rules developed by the Administrator in consultation with the Justice Department and the Federal Trade Commission. Relevant factors to be taken into account are the competitive position and the market share of the persons providing and receiving reimbursement. The Administrator's final order is reviewable in Federal district court.

B. Section 5

Under TSCA section 5(a)(1)(A), manufacturers and importers must notify EPA before they manufacture or import a new chemical substance for a commercial purpose. Under section 5(a)(1)(B) manufacturers, importers, and processors must notify EPA before they manufacture, import, or process an existing chemical substance for a significant new use, if the chemical is covered by an EPA rule adopted under section 5(a)(2). Persons subject to these notification requirements must submit all test data in their possession or control related to the chemical substance under section 5(d)(1)(B), and a description of other data concerning the chemical under section 5(d)(1)(C).

If the chemical is on the "risk list" of chemicals compiled under section 5(b)(4) of the Act, under section 5(b)(2) they also must submit data which show that the chemical substance will not present an unreasonable risk of injury to health or the environment. Under section 5(b)(1) they must also submit any data required to be submitted by a section 4 testing rule.

Section 5(h) governs the availablility of reimbursement for data submitted under section 5. However, it applies only to a narrow category of data that may be submitted, and is not a comprehensive reimbursement scheme for all data submitted to EPA under section 5. Section 5(h) provides reimbursement only for data submitted under section 5(b)(2), and therefore applies only to persons giving notice for a chemical on the section 5(b)(4) list of chemicals which may present an unreasonable risk of injury to health or the environment. Since no chemicals have been listed under section 5(b)(4), there is no requirement to submit data under section 5(b)(2) at the present time. If, under section 5(b)(1), a person submits data required by a section 4

testing rule, reimbursement would be available under section 4(c).

The reimbursement scheme under section 5(h) is identical to that in section 4(c), except that the reimbursement period is calculated differently. Because of the similarity of the provisions of section 4(c) and 5(h), this will be the only rulemaking for reimbursement under TSCA. However, if any changes in the reimbursement rule prove to be necessary when section 5(b)(4) is implemented, appropriate modifications will be proposed at that time.

C. Summary of Requirements

In implementing the reimbursement provisions of sections 4 and 5, EPA is required to:

1. Issue rules for the determination of fair and equitable reimbursement to persons who incurred or are incurring costs in complying with a testing requirement or in developing data to submit with certain premanufacturing notices.

2. Determine the amount of time that was necessary to develop the test data and, if such period was longer than five years, to establish a reimbursement period equal to that longer period.

3. Issue orders (in accordance with the rules on determination of reimbursement) directing persons granted exemptions from section 4 or 5(b)(2) data submission requirements to reimburse persons who incurred costs in complying with such requirements if the concerned parties cannot agree among themselves on the amount and method of compensation.

This notice addresses only the first and third requirements. In some cases, the issues raised here will relate to other section 4 requirements and provisions such as those pertaining to exemptions from the test rule. The relationship between the reimbursement provisions and the rest of section 4 will be discussed when EPA proposes test rules under section 4(a) and establishes exemption policies and procedures under section 4(c).

II. Objectives

EPA has several objectives in the area of reimbursement policy. The first, to provide fair and equitable reimbursement to firms for testing performed in compliance with section 4 of TSCA by those firms exempted from testing, is specifically required by the statute. In addition, EPA wishes to minimize the transaction costs of the reimbursement process for both the industry and EPA. To this end, EPA will seek to encourage negotiated settlements and, when negotiations between the parties fail, to keep the administrative procedures for granting reimbursement orders as simple and efficient as possible. Finally, EPA will attempt to minimize the adverse impact of reimbursement rules, procedures, and orders on competition, innovation, decisions to enter markets, the structure of the industry, and small businesses.

III. Role of Industry and the Public in Rule Development

EPA believes that full industry involvement is vital to the successful development of reimbursement rules, policies, and procedures. This emphasis reflects the specialized nature of this rulemaking. The direct impact of the rules will be felt primarily by the industry since reimbursement concerns the allocation of the costs of testing within the business sector. The firms who are affected are presumably in the best position to suggest a reimbursement scheme they believe will work most equitably and efficiently for them. Hence, EPA strongly urges industry and all other interested parties to submit specific comments and suggestions on all of the issues raised in this notice, as well as any other pertinent concerns not raised here.

EPA is particularly interested in creative and nontraditional regulatory and nonregulatory approaches to reimbursement. There may be ways, for instance, to establish or utilize industry institutions to facilitate reimbursement negotiations, to resolve some of the confidentiality problems, or to perform other functions. EPA will also be specifically considering using arbitration as an alternative to detailed reimbursement rules and administrative procedures. This might involve referring disputes to such organizations as the American Arbitration Association under contract to EPA; the artibrator's decision would be adopted by the Administrator unless there was evidence of fraud. EPA believes that arbitration would be less expensive and more efficient for both the industry and EPA. Further, use of arbitration would minimize many of the potential problems described herein. Therefore, commenters should consider the way arbitration would affect their conclusions on the various issues.

IV. Issues

A. Nature of the Reimbusement Rule

TSCA directs the Administrator to develop rules for determining fair and equitable reimbursement that

> Consider all relevant factors, including the effect on the competitive position of the person required to provide reimbursement in relation to the person to be reimbursed and the share of the market for such substance or mixture of the person required to provide reimbursement in relation to the share of such market of the persons to be reimbursed." TSCA section 4(c)(3)(A), section 5(h)(2)(B).

However, Congress did not specify how the Agency was to make this determination. One of the principal reimbursement issues confronting the Agency relates to the nature of the proposed reimbursement rule. This is an important issue because it will influence the kind of administrative proceedings EPA adopts, affect agency resources and its flexibility in considering individual circumstances, and affect the ability of the industry to predict the amount of reimbursement that would be ordered under the rule. EPA requests comment on the three alternatives discussed below and, particularly, on the degree of specificity in the rule that is considered desirable and possible to achieve.

One approach to this rule would be to adopt a general rule which only identifies the factors to be considered by the decision-maker. This would be a very general approach to the rule. Factors that necessarily would be considered would include allowable costs, and the market share and competitive position of the firm performing the test and the firm(s) receiving the exemption(s). Other appropriate factors might also be identified. Precise definitions of the factors would not be included, nor would there be any determination of the relative weights to be applied to each in determining reimbursement payments.

The major advantages of this type of approach are its flexibility in dealing with individual situations and the ease of including difficult to specify criteria such as competitive position. Conversely, the flexible nature of this approach will make it difficult for firms to anticipate the amount of reimbursement that they might receive, and result in a more resource-intensive administrative process for awarding reimbursement.

A second approach would provide specific definitions for the factors to be considered, but would still leave the weighing of those factors to the decision-maker. This approach allows firms to better anticipate the outcome of the reimbursement decision than under the first alternative, but retains much of the flexibility of the first approach.

A third approach to the rule would be to adopt a formula, with each weight and factor specifically defined. Determination of reimbursement would then involve computation of each factor and application of the formula. A modification of this approach would

utilize a formula, but allow a party to show mitigating circumstances as to why the formula should be modified or not applied with respect to him. This approach would still afford predictability, while giving some flexibility to the Administrator to consider extenuating circumstances warranting some deviation of the general formula.

As stated above, the first approach would have the advantage of greater flexibility in individual cases. The second and third approaches most likely would be easier to apply and be more predictable than the first, and probably would result in less EPA and industry resources being spent in administrative proceedings: More detailed rules could encourage direct settlements between the parties since the parties would be better able to predict the amount of money EPA would award if they did not come to terms themselves.

At the same time, a more specific rule may be very difficult to develop. Several years ago, EPA attempted to develop a formula for reasonable compensation for testing costs under section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act, and was unable to do so. Because of that experience, and because of the impreciseness and complexity of such terms as "competitive position" and "market share," and the varying factual situations that will arise with respect to each chemical or category of chemicals for which testing will be required, a formula-like rule may not be feasible. The Agency does plan to explore each of the three alternatives; however, even if it is determined that a formula is the most desirable approach, EPA may have to adopt a very general rule (the first option) for the short term until expertise is built up and precedents established which can form a basis for the development of a more specific rule. As stated previously, EPA will also be evaluating the use of arbitration.

EPA is aware that cost sharing for health and environmental effects testing already occurs in the chemicals industry. EPA would like comments on how these cost sharing agreements currently operate. This information will help the Agency design a workable program and perhaps facilitate firms reaching private agreements and avoid EPA involvement.

EPA would like comment on the likelihood that the parties will approach EPA to resolve reimbursement disputes, and how that estimation is affected by the nature and specificity of the rule that is promulgated. if it is probable that in most cases the parties will come to terms themselves concerning the amount and method of payment or resort to binding arbitration, then it would seem less desirable to devote intensive resources to develop a complex rule that would be used infrequently.

B. Substantive Factors To Be Considered

TSCA directs EPA to consider market share, competitive position, and other relevant factors. Thus far, EPA has concluded that the amount of reimbursement should be based on the actual data development costs plus the cost of capital during the reimbursement period with the shares paid and received by the persons obtaining and providing reimbursement adjusted to reflect their relative market share and competitive position. EPA is unaware of any other major variable that should be considered since the purpose of the reimbursement provisions is to distribute the costs of testing, and not to improve any party's financial or competitive position. Criticism of this approach and suggestions for other factors that should be considered are welcomed. Comments should also be directed to the issue of whether the rule should state that the factors listed for consideration are an exclusive list, or whether the decision-maker should be given the discretion to consider other variables.

For the second and third approaches discussed above, it will be necessary to define market share, competitive position, and allowable costs. TSCA does not do so, and the legislative history provides little guidance on how it should be done.

1. *Market Share.* The market share of a firm can be defined as the percentage of the relevant market held by that firm. However, to actually calculate market share for a firm, one must first determine the relevant product market and the firm's input to that market. For the purposes of reimbursement, the relevant product market is the market for the substance covered by the testing requirement. However, when testing rules cover categories of substances, and testing is only required for representative members of that category, the market may be defined as the total market for all substances covered by that requirement. In no cases would the definition of the market be expanded to include substitutes not covered by the test rule.

The second major factor to consider in determining market share is the unit of measure chosen to determine the size of the market. There are two basic units of measure which might be used, sales and production, either of which can be determined in terms of weight or value (dollars). (The use of weight instead of value will yield different results when more than one selling price exists for the substance, as might occur if the chemical was produced in differing degrees of purity.)

The determination of which unit of measure to use will to some extent affect the market share attributable to each firm and therefore the distribution of costs. If a purpose of using market share to help determine reimbursement is to distribute the costs in approximately the same ways as profits from producing the chemical are distributed, then the unit of measure used should approximate that distribution. However, the unit of measure could also be chosen to emphasize the amount of a chemical a given firm produces, under the assumption that the figure reflects the firm's contribution to the health or environmental risk the chemical may pose.

In either case, production appears to be preferable to sales as an overall measure of market share. Sales-based data ignore both the value and potential for exposure of internal usage of the substance by the firm. The volume of production expressed in terms of weight reflects the potential for exposure to the substance better than either sales volume or the dollar value of production, but ignores the differing uses, and therefore different potential exposure levels, to a substance. However, the use of dollar value of production, because it takes into account the differences in quality (and the resulting differences in value to the company), as well as internal usage of the chemical, appears to best approximate the value of continued production of the substance to the company. Determination of value of production based on market prices for the substance would avoid the accounting problem of evaluation transfers or usage of a chemical as well.

EPA would like comments on practicable definitions of market share and the advantages and disadvantages of those suggested above. Commenters should also address the question of whether chemicals manufactured or processed for export purposes should be considered in computing market share.

Determination of market share will be particularly difficult for those rules that require both processors and manufacturers to test. Depending upon the nature of the activity that poses the potential hazard, manufacturers, processors, or both may be required to test under section 4 rules. Section 5(a) requires reporting only by manufacturers of new chemicals, but by both manufacturers and processors of

chemicals subject to significant new use rules. One potential approach is to define the market for the manufacturers in terms of production and for the processors in terms of use of the substance.

Another important issue concerns the period of time over which market share is calculated. One option would be for EPA to determine market share based on some historical period such as the five years prior to either the promulgation of the rule or the date when the required studies are submitted. The advantages of this approach are that market share need be computed only once and that firms could base expectations concerning reimbursement on past experience rather than future expectation, reducing both uncertainty and resource requirements for EPA and the firms involved. A severe disadvantage of this approach is that new entrants are not accounted for. In addition, adjustments may have to be made to allow for those who drop out of the market before the test rule elapses, whether in response to the test rule or for other reasons.

A further complication is introducted if a firm drops out of the market because of bankruptcy. In this situation, it would appear that those firms owed reimbursed may have difficulty collecting the full amount owed them. In order to protect surviving firms in these instances, should EPA require some sort of financial surety from each firm receiving an exemption (bonding, escrow accounts, insurance, etc.)?

Another option is to determine market share over the period of time between promulgation of the test rule and its expiration. (The rule expires at the end of the reimbursement period.) This approach has the advantages of covering the relevant period of time, easing the handling of new entrants, and involving EPA only once in the determination of market share. It would also have the advantage of minimizing the disclosure of competitively sensitive information. However, it would result in reimbursement not occurring for at least five years after the data have been submitted and therefore may necessitate some compensation for the cost of capital during this period.

A third option to make an initial determination of market share at or around the time testing is completed, and then to make the final determination at the end of the reimbursement period. This option has the advantage of facilitating at least the initial reimbursement orders to the firm conducting the testing before the expiration of the reimbursement period. The disadvantages are that the final determinations do not occur until at least five years after the first data are submitted, and that market share (and consequently, the amount of reimbursement) must be computed twice at great administrative expense to EPA (and possibly to the involved parties).

It should be noted here that the Administrator does not automatically become involved in the determination of market share or in ordering reimbursement payments. Discussion of the timing and circumstances of the Administrator's involvement (as opposed to the time period used to determine market share) is contained in Part D, Timing of EPA's Involvement.

2. *Competitive Position.* Like market share, the term "competitive position" is not defined in the Act. Unlike market share, however, the term may not be susceptible to refined definition at the outset of rulemaking. The Agency views this is an evolutionary concept to be developed on a case by case basis.

The requirement to take competitive position into account in determining the amount of reinbursement reflects in part Congress' concern with the economic burden of testing on smaller businesses. If a formula-like rule is developed along the lines of the third approach discussed above, competitive position could be the mitigating circumstance used by the company requesting relaxation of the formula. Except for special circumstances, however, it is not clear why one firm should subsidize the testing cost of others, or the more efficient operation subsidize the less efficient operation.

EPA invites comment on how competitive position can be defined and incorporated into determination of reimbursement.

3. *Allowable Costs.* The Act requires that reimbursement be based on "the cost incurred * * * in complying with the requirement to submit such data." Such costs could be defined in several ways.

EPA could determine standard costs for different types of testing or base reimbursement on the cost estimates provided in the individual chemical rule, regardless of the costs actually incurred by the firm doing the testing. Alternatively, reimbursement could be based on the actual costs involved in the development of the data, in which case it might be necessary for EPA to specify cost accounting standards for use by industry. An example of this approach would be to allow costs as specified in the Government Procurement Regulations, 41 CFR Chapter 1, Subpart 15.2. Finally, EPA itself could compute costs based on data submitted by the company actually doing the testing. While the last approach would ensure that all costs are calculated on the same basis, it is least desireable from EPA's point of view because of the added resources that would be required by EPA to perform that function.

Regardless of how allowable costs are determined, they will include both overhead and fixed costs. It is less clear whether allowable costs should include a profit for the firm doing the testing. If a firm subject to the rule contracts with a private testing laboratory to perform the required testing, data reimbursement would be caluculated based on the price set by the testing laboratory which presumably would include a profit. EPA would of course be concerned if excessively high profits inflated the costs of the test, but EPA recognizes that profits for the testing laboratory mut be considered part of the allowable costs for testing that is not done in-house. EPA invites comments on whether the allowable costs for testing done in-house by firms who are themselves subject to the TSCA section 4 requirement should include profit.

A different issue concerns a factor which might be called a "risk premium." These "risk premiums" have developed in recognition of the fact that not all tests are completed successfully because of reasons beyond the control of the test sponsors. An independent laboratory performing the tests under contract would have to restart and complete the study, and the original fee would generally contain a contingency amount (the risk premium) intended to cover the costs of this type of failure. Should "risk premiums" be allowable costs for an industry laboratory doing the test? If not, then should allowable costs be permitted to include the costs of unsuccessful testing? Providing reimbursement for failed tests is probably preferrable from the point of view of the firm doing the testing, but might impose much higher costs on firms required to provide reimbursement for data developed after an interim failure.

The determination of how to treat this issue may rest on the determination of the type of laboratories most likely to be doing this testing. If most of the laboratories are heavily involved in toxicological testing and the test in question involves only a small proportion of their work, the risk premium approach may be preferable as they would be able to spread the cost of the failed test over many tests. A small laboratory, doing only a few tests, would not be able to take advantage of the risk premium because they would not be doing enough testing to allow them to spread the costs of a failed test.

Commenters are encouraged to suggest specific accounting methods for

determining overhead, fixed costs, and allowable costs, and to discuss the necessity of specifying accounting methods. Comments should also be addressed to the question of whether the cost of testing that is more extensive than that required by EPA but scientifically valuable (e.g., an additional dose level, more comprehensive pathology, and additional test species) should be or could be regarded as reimbursable costs. EPA is particularly concerned about the effects of higher testing costs on small firms.

C. Type of Administrative Proceedings

What type of administrative process should be used to decide reimbursement disputes referred to EPA? How does the degree of specificity in the rule itself affect the viability of alternatives approaches? Which of the following mechanisms (or any other not described) is likely to be most equitable and least resource-intensive for both industry and EPA: panels (composed of accountants, economists and/or other experts), arbitration, or adjudicatory hearings with administrative law judges? What can EPA do to encourage voluntary settlements between the parties?

At this time EPA favors the use of an expert panel or arbitrator. Unlike sections 4(c)(4)(B) and 6(b) of TSCA, sections 4(c)(3)(A) and 4(c)(4)(A) do not require either opportunity for a hearing or a hearing on the record within the meaning of the Administrative Procedure Act, 5 U.S.C. § 554. Consequently, EPA intends to explore non-formal adjudicatory options which the Agency believes can have significant advantages over traditional administrative law judge hearings.

D. Timing of EPA's Involvement

A major issue concerns the timing of EPA's involvement in reimbursement disputes. While TSCA requires the Administrator to order the person granted the exemption to provide fair and equitable reimbursement where the parties involved in reimbursement negotiations cannot agree to an amount and method of reimbursement, it does not specify when and under what circumstances the Administrator should issue an order.

With respect to data that have already been submitted, EPA could become involved whenever any of the concerned parties requests the Administrator's intervention. However, EPA is seriously concerned about the resource implications of such an approach. Since the rule remains in effect for a minimum of five years after the first data are submitted, new firms presumably would enter the market during that time, become subject to the rule, and apply for and receive exemptions. As each person providing reimbursement must partially reimburse everyone else who helped finance the costs of testing, EPA could be in the position of issuing numerous reimbursement orders over the years, each of which would require reconsideration of market share and competitive position and necessitate transfers of money between all of the parties. This would involve a considerable expenditure of resources for both EPA and the businesses involved.

EPA believes the practical solution would be to defer its involvement until at or near the end of the reimbursement period. This would enable more accurate computations of reimbursement, reduce the transfers of funds among the firms subject to the rule, and substantially lower the transaction costs for all parties. Another alternative, although less desirable to EPA, would be to determine market share and the other factors used to determine reimbursement at the time the initial request for EPA to begin reimbursement proceedings is received, and then to issue interim orders for reimbursement at one or two specified intervals during the course of the rule, with final determinations made and orders issued at the end of the reimbursement period.

At the same time, EPA recognizes that delaying reimbursement could create economic hardships for the firm that did the testing since it would have made capital outlays to finance the tests. Reimbursement (though not the allowable costs) would have to include interest on the capital investment of the firm submitting the data, to be computed from the date of its expenditures or in the case of a new firm which receives an exemption after testing has been completed, perhaps from the date the new firm applies for or is granted an exemption. The cost of capital, or the amount the firm would have to pay to raise additional capital to replace that expended in complying with the testing requirements, can be expected to vary from firm to firm due to different capital structures, different markets or competitive positions, or other reasons.

In order to avoid the problems associated with a case-by-case determination of the cost of capital for each firm, and the problems that would arise for two firms with different costs of capital, EPA could use an industry weighted average cost of capital. The weighted average cost of capital is the sum of the cost of each type of capital times the ratio of that type of capital to the total capitalization of the firm or industry. Another approach, potentially simplifying the determination even more, would be to use the prime rate of interest from New York City banks or the prime rate plus some fixed percentage. This rate would be averaged over the reimbursement period or the period from the promulgation of the testing rule to the expiration of the reimbursement period. EPA invites comments on these approaches and suggestions for alternative approaches.

Concerns about multiple reimbursement proceedings also arise with respect to data that are in the course of development. In fact, the number of potential transactions is greater than with the other options; the reimbursement period is longer since it covers data while they are being developed and after they are submitted to EPA. One difference, though, is that some firms will obtain exemptions at the very time the firm responsible for conducting the testing is spending capital for the test. Thus, for data in development, the most practical approach may be to require that the firms which obtain exemption either subsidize part of the ongoing testing, with precise financial adjustments among the various firms to be made at a later date, or enter some sort of financial surety relationship as earlier discussed.

E. Reimbursement of Duplicative Data

One problem for which EPA sees no clearcut solution concerns the availability of reimbursement where two or more firms have submitted duplicative data on equivalent chemicals. If the industry does pool its resources to minimize testing costs, as it seems in its interest to do, duplicative data submissions may be fairly rare. However, if several sets of data are routinely submitted, EPA will have to decide which firms are eligible for reimbursement by those persons granted exemptions. Even if another study is ongoing or has been completed, EPA does not have the authority to stop anyone subject to the rule from starting testing.

If more than one person has submitted data or is developing data for submission, may a person receiving an exemption under TSCA section 4(c)(3) or section 4(c)(4) be permitted to select one data submitter to reimburse, or must he reimburse every data submitter for a portion of his costs? Section 4(c)(4)(A)(i) appears to require reimbursement of all persons who are developing data, as well as any other person who previously

contributed to the data submitter's costs. Section 4(c)(3)(A)(i) refers only the *the* person who previously submitted data but more than one person may have done so. EPA believes section 4(c)(3)(A)(i) should be read consistently with section 4(c)(4)(A)(i).

Requiring a person who receives an exemption to pay some proportion of the costs of all persons who submitted data on an equivalent chemical would ensure that not person received most or all of the reimbursement payments. Alternatively, EPA could also add up the costs of all the tests that were done and divide the total by the number of firms subject to the rule in order to allocate the costs equitably. Of course, the figures would have to be adjusted to reflect market share and competitive costs. One drawback to these approaches, however, is that they might be more difficult to implement if everyone whose chemcial was equivalent would have to be joined in a reimbursement proceeding if private negotiations failed. In addition, exempted firms might have to pay for tests that are viewed as unnecessary, and for costs over which they have no control.

A third possibility would be to grant reimbursement to the first person to submit data. A severe drawback to this approach is that it could create the incentive to rush through the testing and possibly to do poorer quality work. Another approach would be to grant reimbursement on the basis of who submitted the best data; however, the qualitative, judgmental nature of that criterion seemingly would be extremely difficult to use. Moreover, the fact that a given test is not the "best" does not mean it lacks merit.

EPA is interested in receiving proposals for resolving this issue, as well as obtaining information about how much multiple testing of chemically equivalent substances the industry anticipates will occur. The degree to which such multiple testing is done will have a significant impact on each firm subject to the rule and hence EPA believes it is important to address these issues.

F. Confidentiality

Confidentiality will be one of the most difficult issues to resolve in developing reimbursement rules and policies. Some of the confidentially problems will most likely first arise during the exemption process. For instance, if particular manufacturers and processors do not want it known that they make a certain chemical or process it for a specific use, it will be exceedingly difficult to establish an information base that would enable everyone subject to the rule to find out who is planning to test and who would prefer to participate in cost-sharing schemes or joint testing. Such claims of confidentially could be crippling in the reimbursement context where the affected parties are expected to negotiate the method and amount of reimbursement and, in the event of an inablility to agree, to participate in the EPA administrative process.

The picture is further complicated by the fact that information pertaining to market share, competitive position, and costs (information EPA must consider in deciding reimbursement) is often considered confidential. Its release to competitors, for example, could create particular problems where there are only a few producers in a market if the information is not otherwise available. In general, it is expected that the confidentiality problems will vary greatly from case to case. Nevertheless, if reimbursement is to be determined by anything other than a formula of actual costs divided by number of firms testing and receiving exemptions—an approach Congress rejected when it directed EPA to consider market share and competitive position—the conflict between maintaining confidentiality and acquiring access to information pertinent to reimbursement decisions must be addressed. EPA strongly encourages businesses to suggest potential resolutions that will meet both needs.

EPA itself clearly may obtain or gain access to financial and commercial data under the authority of sections 8 and 11. The main question will be the extent to which the various parties will have access to confidential information during their own private negotiations and once EPA formally becomes involved. Certainly, the availability of pertinent data from the outset would lead to fruitful negotiations and should avoid the necessity of EPA reimbursement proceedings.

If the parties are unable to agree on reimbursement, as a condition to its involvement EPA would require that the necessary information be available to the parties under appropriate restrictions. This would be done pursuant to section 14(a)(4) of the Act and 40 C.F.R. § 2.306(i) which permit the disclosure of confidential commercial information when relevant to a proceeding under TSCA, provided disclosure is made in manner that preserves confidentially to the extent practicable without impairing the proceeding.

V. Specific Comments Requested

In the preceding sections, EPA has raised a number of major issues that the Agency will face in drafting a reimbursement rule and in most cases has discussed or raised several alternatives in order to obtain comments that will aid the Agency in development of the rule. In submitting comments on section IV, it is requested that comments particularly focus on the following specific issues.

1. To what extent can it be expected that firms will collaborate in the testing of chemicals in response to section 4 requirements? To what extent and how do firms presently share health and environmental effects testing and research costs?

2. How specific a rule is considered desirable? Is a formula-like rule possible to develop successfully?

3. What type of administrative proceeding is preferred, and which would at least resource intensive:

(i) A panel of experts (accountants, economists, etc.),

(ii) Adjudicatory hearings with administrative law judges,

(iii) Arbitration, or

(iv) Some other mechanism?

4. Should (and can) EPA attempt to limit the number of tests eligible for reimbursement? How should this be done?

5. When and under what circumstances should EPA become involved in reimbursement matters?

6. How should market share be determined and how should it be taken into consideration when determining the amount of reimbursement?

7. How should compeititive position be determined and how should it be taken into consideration when determining the amount of reimbursement?

8. What costs should be allowed in determining reimbursement? What financial arrangements and enforcement mechanisms might be most effective in assuring that the testing firm and other cooperating firms receive payment for testing expenses and comply with reimbursement orders?

9. What can be done to minimize the potential problem posed by data confidentiality? Determination of market share may involve the use of some information that is regarded as confidential and determination of reimbursement may result in a competitor being able to calculate market shares. Use of market shares over long periods of time (five years or the time from promulgation of the rule to the expiration of the reimbursement

period) will tend to reduce the problem. What other steps may be taken?

10. Do industry institutions exist (or can they be established) which can be utilized to address and alleviate any of the problems raised in this notice?

Public Record: EPA has established a public record for this rulemaking (OTS–48001) which will be available for inspection in the OTS Public Reading Room, Room 447 East Tower at the U.S.E.P.A., 401 M Street, S.W., Washington, D.C., 20460, between 8:30 A.M. and 4:00 P.M., Monday through Friday.

(Sections 4(c) and 5(h) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2603 and 2604)

Dated: September 11, 1979.

Douglas M. Costle,

Administrator.

[FR Doc. 79–28950 Filed 9–17–79; 8:45 am]

BILLING CODE 6560–01–M

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Tuesday, September 18, 1979

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32 52011
33 52011
611 ..... 52284, 53094, 53191, 54072
650 52852
651 53259
656 53191
672 52284
810 52289

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

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

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

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

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

Rules Going Into Effect Today

TRANSPORTATION DEPARTMENT

Coast Guard—

45381 8–2–79 / New York harbor vessel traffic service

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 September 10, 1979