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# federal register

Tuesday
September 25, 1979

## Highlights

55121 **Economic Assistance for Yugoslavia** Presidential determination

55213 **Pesticide Programs** EPA solicits comments on pesticide regulation guidelines on evaluation of hazards to humans and domestic animals; comments by 10–25–79

55322 **Clean Water** Interior/OSM and EPA propose memorandum of understanding integrating National Pollutant Discharge Elimination System with permanent regulatory program permit system for Surface Coal Mining and Reclamation Operations; comments by 11–9–79 (Part V of this issue)

55183 **Rural Environmental Programs** USDA/ASCS proposes regulations on Emergency Conservation Program; comments by 11–26–79

55314 **Aid to Families With Dependent Children and Medicaid Programs** HEW/Sec'y issues policy statement on fiscal disallowance for erroneous payments (Part IV of this issue)

55316 **Medicaid Program** HEW/HCFA proposes set uniform national target error rate of 4% for all States; comments by 11–26–79 (Part IV of this issue)

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# Highlights

**55318** **Aid to Families With Dependent Children** HEW/SSA proposes changes in quality control standards for reduction of incorrect payments; comments by 11–26–79 (Part IV of this issue)

**55198** **Multifamily Dwellings and Care-Type Housing** HUD/FHC proposes increased life safety requirements; comments by 11–26–79

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# Presidential Documents

Title 3—

The President

## Presidential Determination No. 79–16 of September 13, 1979

## Economic Support Fund Assistance for Yugoslavia in the Fiscal Year 1979

**Memorandum for the Secretary of State**

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, as amended (the Act):

I hereby determine pursuant to section 620(b) of the Act that Yugoslavia is not dominated or controlled by the international Communist movement.

I hereby find pursuant to section 620(f) of the Act that the furnishing of assistance to Yugoslavia under chapter 4 of part II of the Act in the fiscal year 1979 is vital to the security of the United States, that Yugoslavia is not controlled by the international Communist conspiracy, and that such assistance will further promote the independence of Yugoslavia from international communism.

I hereby determine pursuant to section 614(a) of the Act that the furnishing of such assistance to Yugoslavia is important to the security of the United States, and authorize the furnishing of $10,000,000 in such assistance without regard to section 620(f) of the Act.

I hereby determine pursuant to section 653(b) of the Act that such assistance is in the security interest of the United States.

This determination shall be reported to the Congress immediately, and none of the funds provided for herein shall be furnished to Yugoslavia until ten days have elapsed after such report has been made, and fifteen days have elapsed after the notifications of reprogramming have been furnished to the Congress in accordance with section 634A of the Act and the Foreign Assistance and Related Programs Appropriations Act, 1979, as required by law.

This determination shall be published in the **Federal Register.**

THE WHITE HOUSE,
*Washington, September 13, 1979.*

Jimmy Carter

[FR Doc. 29901
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# Rules and Regulations

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

## COST ACCOUNTING STANDARDS BOARD

### 4 CFR Parts 400, 403, 410 and 420

### Cost Accounting Standards

**AGENCY:** Cost Accounting Standards Board.

**ACTION:** Final rule.

**SUMMARY:** Part 420 provides criteria for (1) the accumulation of independent research and development (IR&D) costs and bid and proposal (B&P) costs, and (2) the allocation of such costs to cost objectives based on the beneficial or causal relationship between such costs and other cost objectives. It is one of a series of cost accounting standards which the Board is promulgating "to achieve uniformity and consistency in the cost acounting principles followed by defense contractors and subcontractors under Federal contracts." (See section 719(g) of the Defense Production Act of 1950, as amended.) Any contractor receiving an award of a contract subject to the rules, regulations, and Standards of the Cost Accounting Standards Board on or after the effective date of this Standard will be required to follow it in accordance with the provisions of § 420.80. The amendments to Parts 403 and 410 are incidentally related.

**EFFECTIVE DATE.** March 15, 1980.

**FOR FURTHER INFORMATION CONTACT:** Clark G. Adams, Project Director, Cost Accounting Standards Board, 441 G Street, NW., Room 4836, Washington, D.C. 20548, (202) 275–5418.

**SUPPLEMENTARY INFORMATION:**

**(1) Background**

Work on the development of this Standard was initiated based on the General Accounting Office *Report on the Feasibility of Applying Uniform Cost Accounting Standards to Negotiated Defense Contracts.* The report referenced problem areas concerned with (1) the allocation of incurred costs to IR&D and B&P projects, (2) the allocation of such costs to cost objectives, and (3) the definition of IR&D and B&P work tasks. Over the years, Congress has continued to express its concern about the large amount of money reimbursed to defense contractors in the area of IR&D and BP. In 1978, the last reported year, the 90 companies large enough to have advance IR&D and B&P agreements with the Government, were reimbursed by the Government about $1.2 billion for this effort.

Early research conducted by the Board was directed towards obtaining information on the views, policies, definitions, accounting practices and administrative procedures followed in the management of IR&D and B&P activities by the defense industry, commercial companies, and Government agencies. This research was accomplished by means of questionnaires sent to 65 defense contractors and 10 commercial companies; reviews of General Accounting Office reports, congressional hearings, Armed Services Board of Contract Appeals cases, various technical papers; and discussion with several Government agencies. Also included in the research were evaluations of recommendations made by a study group of the Commission on Government Procurement covering IR&D costs and a Statement concerning the *Accounting for Research and Development Costs* (FAS No. 2) issued by the Financial Accounting Standards Board.

A research draft was distributed on April 29, 1977, to obtain comments. Comments were received from 73 respondents. The Board after considering the comments published a proposed Standard for comment in the **Federal Register** on July 28, 1978. Sixty-three commentators responded to this publication. Because significant revisions appeared appropriate after evaluation of the comments, the Board decided to publish the proposed Standard for comments a second time in the **Federal Register** on May 25, 1979. 46 responses were received from individual companies, Government agencies, professional associations, public accounting firms, industry associations and others. The Board takes this opportunity to express its appreciation for the helpful suggestions and criticisms which have been furnished. The comments furnished by organizations and individuals have resulted in a number of changes in the Standard. The comments below summarize the issues discussed in connection with both proposed Standards and explains major changes which have been made to the earlier proposals. This Standard was previsouly published as CAS 422. It has been renumbered to CAS 420 to accommodate changes in the work plans of the Board.

**(2) Need for a Standard**

Many commentators questioned the need for a separate Standard for IR&D and B&P. Almost all of those who raised this issue cited the other allocation Standards, 403 and 410 and proposed indirect cost Standards 417, 418 and 419 and stated that the allocation practices set forth in those Standards adequately cover the allocation of IR&D and B&P costs.

Appendix III of the General Accounting Office Cost Accounting Standards feasibility study is entitled "Problem Areas in the Assignment of Government Contract Costs." It contained a tabulation of problem areas. The subject of "IR&D/B&P/Economic Planning" represented the highest number of reported problems of the 23 subjects on the list. On that list also were the subjects of "allocation", "direct vs. indirect", depreciation, etc. An analysis of disclosure statements in the Cost Accounting Standards Board's data bank showed a considerable divergence in accounting practices followed by Government contractors. For example, the disclosure statements revealed that contractors allocated IR&D and B&P cost pools to final cost objectives by means of such allocation bases as sales, cost of sales, cost input, modified cost input, modified cost of sales, direct labor dollars, manhours, and headcount. Staff research which involved visits with over 50 defense contractors and several Government agencies confirmed this divergence of practice. DOD and NASA have similar procurement regulations covering the accounting for these costs, but other agency regulations vary substantially and, as a result, a variety

of accounting practices are in use for IR&D and B&P costs.

This Standard will provide for increased uniformity and consistency of allocation among segments based on the beneficial or casual relationship between the IR&D and B&P costs and segments of a company. The Standard will also provide for increased uniformity in the composition of these costs within contractor's segments, especially in the segments identified as central research laboratories.

The Board recognizes that the already promulgated allocation Standards 403 and 410, and the proposed indirect cost Standards 417, 418 and 419 have general requirements which will be consistent with the requirements of this Standard. Standards 403 and 410, however, would each have to be amended to include the specific accounting provisions of this Standard. IR&D and B&P costs are an important element of the contractor's total costs allocated to its final cost objectives. The Board believes that the accounting practices for these costs should be centralized in a single Standard in order to clearly provide the proper guidance for their allocation to cost objectives. Neither the contractor nor the Government should have to search out the accounting requirements in various Standards in order to obtain this guidance. By providing this guidance in a single source the Board believes that the administrative and accounting complexities for these costs will be reduced for both the contractor and the Government.

**(3) Definitions**

Several commentators continue to raise questions regarding the definitions. The comments generally requested definitions to clarify the accounting for "B&P administrative costs" and "technical" effort associated with IR&D costs. The words requested to be included in the Definition of Bid and Proposal Costs are: "B&P administrative costs, when not separately identified and classified as B&P costs in accordance with the contractor's normal accounting practice, are not considered B&P costs for the purpose of this Standard." Commentators also suggested that the word "technical" be included in the definition of IR&D effort so as to determine the nature of the costs allocable to IR&D effort. The commentators wanted these changes as an aid in determining what costs should be charged directly to these projects.

The definitions of IR&D costs and B&P costs are not intended to include allocation requirements. Guidance on allocation is included in other sections of the Standard. Subparagraph 420.50(a)(1) of the Standard provides guidance on what costs are to be charged directly to IR&D and B&P projects. Therefore, the requested additions are not necessary.

**(4) Accumulation of IR&D Costs and B&P Costs by Project**

A few respondents commented on the requirement in the Standard to account for IR&D and B&P costs by project. One commentator stated that he believed that most contractors who will be required to comply with this requirement have the capability to accumulate IR&D and B&P costs by individual projects. The commentator noted that the Board has properly considered the concept of materiality by permitting the combining of the costs of IR&D or B&P efforts of small dollar value in a single project for inclusion in the appropriate pool without the necessity of separate cost identification.

One commentator stated that even though it accounted for IR&D and B&P costs by project, it was certain that there were small contractors who did not have systems which would be sophisticated enough to keep costs in such a way. The staff of the Board visited in excess of 50 contractors in conducting research on this project. In every instance contractors accumulated the costs of IR&D and B&P by project. The Board believes that, with the materiality consideration provided in 420.50(c), the requirement to accumulate IR&D and B&P costs by project should be retained. In further consideration of the materiality concept, overhead costs and other indirect costs allocable to individual IR&D and B&P projects need not be recorded by individual project if subsequent pool allocations of these costs yield the same results as if they had been so recorded.

It was noted that the reference to "clearly and exclusively" as the criteria for allocating costs directly to IR&D and B&P projects makes a more limited requirement for this allocation than is provided for in proposed Standard 417, Distinguishing between Direct and Indirect Costs. The Board's intent is to be consistent in the accounting specified for costs incurred in like circumstances, and the use of the terms "clearly and exclusively" in the fundamental requirement was intended to provide this consistent treatment. It was pointed out that the same test which is included in proposed Standard 417 is only one of three tests for making the determination of what cost shall be accounted for as a direct cost.

The Board agrees that the use of "clearly and exclusively" in this Standard without the use of the complete set of criteria would have placed a limitation on what costs should be allocated directly to IR&D and B&P projects, and this would be more restrictive than the requirement contained in proposed Standard 417. The Board believes that it would be inappropriate to restate in CAS 420 the entire fundamental requirement for the proposed Standard on Distinguishing Between Direct and Indirect Costs. It believes further that the techniques for application, paragraph 420.50(a)(1) adequately establish the allocation requirement sought for these costs. For all of these reasons, the fundamental requirement paragraph has been revised accordingly.

**(5) Allocation of Business Unit G&A Expenses to IR&D and B&P Costs**

One commentator raised the question of allocating business unit general and administrative expenses to IR&D and B&P costs. This commentator made the point that accounting for this effort by project is tantamount to treating it as a final cost objective and therefore it should have allocated to it a business unit's general and administrative expenses. Both proposals published in the **Federal Register**, July 28, 1978 and May 25, 1979, contained the provision that business unit G&A expenses should not be allocated to IR&D and B&P costs. A majority of respondents to the July 28, 1978 proposal commented favorably on that section of the proposal.

Many of these commentators in replying to an earlier draft of the Standard, which had provided for allocating G&A expenses to IR&D and B&P costs, had expressed the view that IR&D and B&P costs were of general benefit to a segment or a company and therefore similar in nature to G&A expenses. They believed that since such costs were similar in nature to G&A expenses they should not receive an allocation of G&A expenses. The Board was pursuaded by this view and for that reason the Standard retains the provisions for not allocating business unit general and administrative expenses to IR&D and B&P costs.

Several commentators directed remarks to accounting for IR&D and B&P costs at organizations of a company that perform as research laboratories. Some stated the belief that G&A expenses of such segments should be allocated to its IR&D costs if the segment is a "central research laboratory." Others, including an industry association, were of the opinion that a research laboratory should be treated as any other segment and its IR&D costs should not receive an allocation of G&A expenses.

The Board for some time has been persuaded that the nature of IR&D and B&P effort is such that it should not receive an allocation of business unit G&A expenses. Nothing in the comments received from the three commentators seeking to have special IR&D or B&P costs accounted for differently than all other IR&D or B&P costs provided the Board with criteria for setting up different accounting treatment. The Board believes that such costs should not receive an allocation of business unit G&A expenses and the Standard so provides.

**(6) Allocation of G&A Expenses to Work Performed by One Segment for Another Segment or Home Office**

Many contractors in responding to the proposed Standard objected to the provisions in the proposed Standard which required that G&A expenses be allocated to work performed by one segment for another segment or home office. Some stated the belief that paragraph .50(c) was inconsistent with .40(c) in the proposed Standard, which provided that business unit G&A expenses shall not be allocated to IR&D and B&P projects. The Board sees no inconsistency. If the work performed is an IR&D or B&P project of the performing segment and also benefits the receiving segment, it must be transferred to the home office without an allocation of business unit G&A expenses in accordance with 420.50(f)(1). It will then be allocated to benefiting segments pursuant to 420.50(e). If the work is not IR&D or B&P effort of the performing segment the allocation of general and administrative expenses will be governed by CAS 410.

Commentators also expressed concern that including G&A expenses in the costs of IR&D or B&P work performed by one segment for another might push total IR&D and B&P costs above the negotiated ceilings. They contended that this would make the excess cost unrecoverable from any source. Furthermore, by increasing the allocated cost of a given research effort, less research would be financed by a given research allowance.

The Board recognizes these objections, but believes that the question of whether and how G&A expenses should be allocated must be decided on other grounds. The Board believes that if work is performed at a segment and sold to or transferred to another segment directly, it should be considered a final cost objective of the performing segment. Allocating G&A expenses to such work would be consistent with CAS 410 which provides for allocating general and administrative expenses to stock or product inventory as well as to final cost objectives of the segment. This accounting treatment is consistent with previous Standards and proposals which have dealt with segments as separate units, each with their own final cost objectives. It is also consistent with proposed Standard 419.

Some commentators agreed with the concept of allocating G&A expenses to work which is part of a segment's normal product or service and therefore a final cost objective of the segment, but disagreed with the use of the phrase "project in which the performing segment has an interest." The commentators believed that the phrase was not sufficiently objective to be properly administered.

The Board recognizes that there are valid objections to the use of the descriptive phrase "has an interest (in)." This subparagraph (now numbered .50(d)) has been revised to provide that work performed by one segment for another shall not be treated as IR&D or B&P effort of the performing segment unless the work is also part of an IR&D or B&P project of the performing segment.

**(7) Allocation of Home Office IR&D and B&P Cost Pools**

In being responsive to comments on earlier proposals, the May 1979 proposal provided for allocation of IR&D or B&P costs to a limited group of segments or to specific segments where such identification could be established between specific work and benefiting or causing segments. At the urging of most commentators, the identification requirements and the base for allocation were stated as general requirements in the proposal. Two commentators suggested language to provide that a clear and exclusive identification of work to a specific segment(s) should be required to permit this type of allocation. The Board believes that such a change would be unduly restrictive.

The Board is aware that usually not all IR&D or B&P costs could be identified to specific segments. The Board believes that such residual home office IR&D and B&P costs should be allocated on a base which is representative of the total activity of segments being managed. Cost input therefore was selected in the May 1979 proposal as a good representation of total activity.

Several commentators objected to the use of only one base. As stated previously, the Board is seeking a base that will represent the total activity of the segments reporting to the home office. It does not with the Standard to be needlessly restrictive. The base used to allocate the home office residual expense under CAS 403 is a base representing total activity. A majority of commentators to the proposed Standard suggested that, in lieu of cost input as the base, the company be allowed to allocate residual home office IR&D and B&P costs on the same base it now uses to allocate home office residual expense under CAS 403. The Standard has been revised to provide for that method of allocation, but the amount of IR&D and B&P costs so allocated is not to be added to the residual pool to determine whether use of the 3 factor formula in CAS 403 is required.

One commentator recommended that "* * * all IR&D costs be pooled at the home office level and then allocated in a consistent and uniform manner over the entire business. This policy would serve as a deterrent to contractors undertaking frivolous IR&D projects or projects of questionable military relevance in divisions where costs would otherwise be borne primarily by the Government."

Early in its research the Staff considered this approach to determine if it best represented the beneficial or causal relationship between the IR&D and B&P costs and final cost objectives. The staff found that it was not unusual to find IR&D or B&P efforts which were clearly of benefit to or caused by a single segment or a group of segments within a company. For that reason the Board believes that the beneficial or causal relationship between IR&D and B&P costs and final cost objectives can be more effectively identified at organization levels below the one encompassing the entire company.

There may be situations where the beneficial or causal relationship can best be reflected by pooling and allocating on a general basis over the entire company. In such cases, the method suggested by this commentator would be called for under the Standard.

**(8) Allocation of Segment IR&D and B&P Cost Pools**

Several commentators suggested that where IR&D or B&P effort is determined to be of benefit to or caused by more than one segment, direct transfer of that IR&D or B&P costs between segments should be permitted. The Standard being promulgated today continues to provide that any IR&D and B&P project which benefits more than one segment of the organization shall have its costs transferred to the home office for allocation among benefiting segments. To avoid unnecessary recordkeeping, however, the Board has provided that the transfer can be recorded directly in the accounts of the other segments if the resulting allocation is substantially the

same as it would be if passed through the home office.

One commentator was concerned that there would be confusion as to the home office to which such costs would be transferred. The suggestion was made that the Standard provide that such costs be transferred to an intermediate home office. The Board believes that such an addition is not needed. The definitions of both home office and segment in 4 CFR Part 400 make clear that the transfer of costs under this provision of the Standard could be only to the home office most immediate to the segment.

**(9) Allocation of IR&D and B&P Costs to Product Lines**

Many commentators to the proposed Standard felt strongly in their responses that the allocation of IR&D or B&P costs to product lines would be impractical. Most commentators believed that the arguments and disagreements between the parties as to what constitutes a Product Line would outweigh any possible benefits that could be received from the direct identification of cost objectives that would be achieved by such provision.

In visits made by the Staff with several commentators subsequent to the publication of the proposed Standard, the question of using the same definition of Product Line used by the Federal Trade Commission (FTC) in its Line of Business Reporting was discussed. All the commentators were of the opinion that this definition would not be suitable in determining guidance for the allocation of segment IR&D and B&P costs to product lines. The primary concern of the commentators was that the FTC definition establishes product lines within a company that cross over several segments of the company. Consequently, contractors would face considerable difficulties in attempting to allocate IR&D and B&P costs in accordance with the FTC definition.

In further considering the question of defining Product Line, the comments on the proposal by the Department of Defense were particularly pertinent. Those comments stated that "In the case of product lines, our experience with the cost principle that was in the ASPR prior to 1970 convinced us that it is not practicable to define a product line. In our attempt to designate product lines, and relate development costs to them, we found ourselves in endless arguments with contractors. . . . In our experience we found that contractors and contracting officers could seldom agree on product lines and usually resolved the matter by describing a product line that included all work in the plant. If the product line allocation provision remains in the proposed Standard, we expect these experiences will again be repeated."

The Board has considered the problems connected with the lack of definition and the administrative effort that would accompany any attempt to allocate the costs of individual IR&D or B&P projects to product lines. These provisions are not included in the Standard being promulgated today.

**(10) Selection of Allocation Base for Segment IR&D and B&P Costs**

The majority of commentators objected to the use of only the total cost input base for the allocation of a segment's IR&D and B&P costs to final cost objectives. Most of these commentators suggested the Standard be revised to provide that IR&D and B&P costs be allocated to final cost objectives of the business units using the same base that is used to allocate the business unit G&A expense to final cost objectives.

The Board agrees that the beneficial or causal relationship between IR&D and B&P costs and final cost objectives is similar to the relationship between G&A expenses and final cost objectives. After considering the many comments regarding this part of the Standard, it has been revised and the allocation requirement now states that the IR&D and B&P cost pools shall be allocated to final cost objectives of the business unit using the same base that the business unit uses to allocate its G&A expenses.

**(11) Deferral of Development Costs**

The proposed Standard provided for the deferral of the cost of IR&D effort which met specific criteria, and established criteria for the identification of such costs. It also noted that the composition of the costs and the allocation procedure for such costs would require further research before establishing an accounting Standard. Reaction to this provision in the proposal has been extensive and varied.

Several respondents to the May 25, 1979, proposed Standard noted that the Board should not allow the allocation of deferred development costs as this would be in conflict with the Financial Accounting Standards Board's (FASB) Statement No. 2, *Accounting for Research and Development Costs.* One of these pointed out that the FASB in its statement set forth the position that for financial reporting purposes research and development costs should be charged as a current period cost. Another stated that his company did not and would not defer such expenses, even if the Standard permitted such action.

Although the Board has always considered the FASB to be an authoritative body and considers its statements when promulgating its own, the FASB's concern is with external financial reporting, not with contract costing. FAS Statement No. 2 therefore is not determinative for contract costing and pricing purposes.

A few commentators agreed with the provision as stated in the proposal and urged its adoption without modification. One industry commentator said, "We agree with the language as stated and believe the criteria is conceptually sound so as to permit implementation by the acquisition agencies. We do not feel that further research on behalf of the CAS Staff is necessary, and (we) encourage this language be contained in the promulgated standard as written."

The majority of commentators expressed approval of the concept provided that the act of deferral should be at the sole option and discretion of the contractor. The Board has concluded that this would be inappropriate, however, because it would not be consonant with the uniformity and consistency objectives of Public Law 91-379.

A broad spectrum of commentators suggested that the Board not change the status quo of this category of costs of deferred development in this Standard. They suggested that the entire subject, including requirements for allocating deferred costs, should be treated in one Standard. The commentators who made this suggestion represented industry, a professional accounting association, and a Government agency.

The Board continues to believe that there are different types of development costs and that objective criteria can probably be found to identify such costs. It believes, also that an important aspect of this question is the accounting treatment, including the amortization and allocation of these costs. The existence and the allocability of deferred IR&D and deferred development costs are recognized to some degree today in various procurement regulations. Current proposals in the Federal Acquisition Regulations (FAR) increase the recognition and allowability of such costs.

Many commentators criticized the criteria listed in the May 1979 proposed Standard, but were unable to suggest other criteria that would provide the objective tests the Board believes necessary for a Standard on this subject. The Board will undertake research on a project to determine the feasibility of a

Standard which will identify and provide for the accounting treatment of deferred development costs. In the interim, the agencies may continue to exercise their authority to identify and allocate such costs. To that end the Standard covers these costs in subparagraph 420.40(f)(2) which provides: "IR&D costs incurred in a cost accounting period shall not be assigned to any other cost accounting period, except as may be permitted pursuant to provisions of existing laws, regulations, and other controlling factors."

**(12) Transition From the Use of a Cost of Sales Base to a Cost Input Base**

On commentator noted that the Standard was silent in regard to its application when a contractor was required to convert his accounting system from the use of a cost of sales base to the use of a cost input base for the allocation of a segment's IR&D and B&P costs. This commentator suggested that the Standard include a provision such as was incorporated in the appendix of CAS 410 which provided the accounting to be followed during the transition period. The Board does not believe that this Standard warrants the additional complexity of a transition method. The Board notes that the contractor and the Government may negotiate an equitable adjustment for this change as provided in Part 331.50(a)(4)(A) of the Board's regulations.

**(13) Effective Date of Standard**

One commentator stated that the promulgation of this Standard would require reorientation of both contractor and Government personnel who are charged with the accounting and administration of contracts. The commentator noted that the Standard should provide for an extended implementation period. The primary concern of the commentator was directed towards the negotiation of advance agreements for these costs, and the impact of this Standard on such advance agreements. The Board expects that this Standard will become effective on March 15, 1980. However, to provide adequate lead time for its applicability the Standard provides that it shall be followed by contractors as of the start of the second fiscal year beginning after the receipt of a contract to which this Cost Accounting Standard is applicable.

**(14) Cost and Benefit**

The Board in taking into account the cost and benefits of the Standard being promulgated today was especially mindful of the significance, both in nature and amount, of the category of costs being considered here. In comments received regarding the proposed Standard published in the **Federal Register**, some commentators offered opinions as to the cost of implementing the Standard. One commentator stated the proposed Standard will have minimal impact on administrative costs. Some commentators stated that they had not estimated the amount of increased administrative costs which would result from implementation of this Standard. Based on their experience with previously promulgated Standards, these costs depend on the interpretation and implementation requirements used by the auditors and procurement officials responsible for the administration of Cost Accounting Standards. Two commentators provided large cost estimates for implementing this Standard. One commentator based its estimate on the requirement to identify IR&D or B&P projects to product lines. This requirement has been eliminated from the Standard being promulgated.

As mentioned earlier, Congress continues to express its concern regarding the large reimbursements defense contractors receive in order to carry out their IR&D and B&P efforts. (About $1.2 billion in 1978). As many commentators pointed out, this area of costs (especially IR & D) receives much attention through the medium of advance agreements. These advance agreements contain some accounting ground rules to be followed by the contractor in determining what constitutes IR&D and B&P costs. The current acquisition regulations, however, allow significant flexibility in determining costs for these projects. One of the benefits of the Standard is that it provides increased uniformity and consistency in determining how IR & D and B & P costs are constituted, and how these incurred costs should be allocated to cost objectives.

**(15) Amendments**

In addition to the promulgation of 4 CFR Part 420, related amendments to 4 CFR Part 400 and to Standards 4 CFR Part 403 and 4 CFR Part 410 are being promulgated.

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## PART 400—DEFINITIONS

Part 400, *Definitions* is amended to include the following definitions:

**§ 400.1 Definitions**

* * * * *

*Bid and Proposal (B&P) Cost.* The cost incurred in preparing, submitting, or supporting any bid or proposal which effort is neither sponsored by a grant, nor required in the performance of a contract.

*Independent Research and Development (IR&D) Cost.* The cost of effort which is neither sponsored by a grant, nor required in the performance of a contract, and which falls within any of the following three areas: (i) Basic and applied research, (ii) Development, and (iii) Systems and other concept formulation studies.

* * * * *

## PART 403—ALLOCATION OF HOME OFFICE EXPENSES TO SEGMENTS

Title 4 CFR Part 403, *Allocation of Home Office Expenses to Segments*, is amended by deleting paragraph (b)(5) of § 403.40 and inserting the following in lieu thereof.

**§ 403.40 Fundamental requirement.**

(b) * * *

(5) *Independent research and development costs and bid and proposal costs.* Independent research and development costs and bid and proposal costs of a home office shall be allocated in accordance with 4 CFR Part 420.

## PART 410—ALLOCATION OF BUSINESS UNIT GENERAL AND ADMINISTRATIVE EXPENSES TO FINAL COST OBJECTIVES

* * * * *

Title 4 CFR Part 410, *Allocation of Business Unit General and Administrative Expenses to Final Cost Objectives*, is amended by deleting paragraph (d) of § 410.40 in its entirety and inserting the following in lieu thereof.

**§ 410.40 Fundamental requirement.**

* * * * *

(d) Any costs which do not satisfy the definition of G&A expense but which have been classified by a business unit as G&A expenses, can remain in the G&A expense pool unless they can be allocated to business unit cost objectives on a beneficial or causal relationship which is best measured by a base other than a cost input base.

Title 4 CFR Chapter III is amended by adding a new Part 420 to read as follows:

## PART 420—ACCOUNTING FOR INDEPENDENT RESEARCH AND DEVELOPMENT COSTS AND BID AND PROPOSAL COSTS

Sec.

420.10 General applicability.
420.20 Purpose.
420.30 Definitions.

Sec.

420.40 Fundamental requirement.
420.50 Techniques for application.
420.60 Illustrations.
420.70 Exemptions.
420.80 Effective date.

Authority: 84 Stat. 796, sec. 103 (50 U.S.C. App. 2168)

### § 420.10 General applicability.

General applicability of this Cost Accounting Standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the Cost Accounting Standards contract clause in negotiated defense prime contracts and subcontracts. (§ 331.30 of this chapter.)

### § 420.20 Purpose.

The purpose of this Cost Accounting Standard is to provide criteria for the accumulation of independent research and development costs and bid and proposal costs and for the allocation of such costs to cost objectives based on the beneficial or causal relationship between such costs and cost objectives. Consistent application of these criteria will improve cost allocation.

### § 420.30 Definitions.

(a) The following definitions of terms which are prominent in this Standard are reprinted from Part 400 of this chapter for convenience. Other terms which are used in this Standard and are defined in Part 400 of this chapter have the meanings ascribed to them in that part unless the text demands a different definition or the definition is modified in paragraph (b) of this section.

(1) *Allocate.* To assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.

(2) *Bid and proposal (B&P) cost.* The cost incurred in preparing, submitting, or supporting any bid or proposal which effort is neither sponsored by a grant, nor required in the performance of a contract.

(3) *Business unit.* Any segment of an organization, or an entire business organization which is not divided into segments.

(4) *General and administrative (G&A) expense.* Any management, financial, and other expense which is incurred by or allocated to a business unit and which is for the general management and administration of the business unit as a whole. G&A expense does not include those management expenses whose beneficial or causal relationship to cost objectives can be more directly measured by a base other than a cost input base representing the total activity of a business unit during a cost accounting period.

(5) *Home office.* An office responsible for directing or managing two or more, but not necessarily all, segments of an organization. It typically establishes policy for, and provides guidance to the segments in their operations. It usually performs management, supervisory, or administrative functions, and may also perform service functions in support of the operations of the various segments. An organization which has intermediate levels, such as groups, may have several home offices which report to a common home office. An intermediate organization may be both a segment and a home office.

(6) *Independent research and development (IR&D) cost.* The cost of effort which is neither sponsored by a grant, nor required in the performance of a contract, and which falls within any of the following three areas: (i) Basic and applied research, (ii) Development, and (iii) Systems and other concept formulation studies.

(7) *Indirect cost.* Any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective.

(8) *Segment.* One of two or more divisions, product departments, plants, or other subdivisions of an organization reporting directly to a home office, usually identified with responsibility for profit and/or producing a product or service. The term includes Government-owned contractor-operated (GOCO) facilities, and joint ventures and subsidiaries (domestic and foreign) in which the organization has a majority ownership. The term also includes those joint ventures and subsidiaries (domestic and foreign) in which the organization has less than a majority of ownership, but over which it exercises control.

(b) The following modifications of definitions set forth in Part 400 of this Chapter are applicable to this Standard. None.

### § 420.40 Fundamental requirement.

(a) The basic unit for the identification and accumulation of IR&D and B&P costs shall be the individual IR&D or B&P project.

(b) IR&D and B&P project costs shall consist of all allocable costs, except business unit general and administrative expenses.

(c) IR&D and B&P cost pools consist of all IR&D and B&P project costs and other allocable costs, except business unit general and administrative expenses.

(d) The IR&D and B&P cost pools of a home office shall be allocated to segments on the basis of the beneficial or causal relationship between the IR&D and B&P costs and the segments reporting to that home office.

(e) The IR&D and B&P cost pools of a business unit shall be allocated to the final cost objectives of that business unit on the basis of the beneficial or causal relationship between the IR&D and B&P costs and the final cost objectives.

(f)(1) B&P costs incurred in a cost accounting period shall not be assigned to any other cost accounting period.

(2) IR&D costs incurred in a cost accounting period shall not be assigned to any other cost accounting period, except as may be permitted pursuant to provisions of existing laws, regulations and other controlling factors.

### § 420.50 Techniques for application.

(a) IR&D and B&P project costs shall include: (1) costs, which if incurred in like circumstances for a final cost objective, would be treated as direct costs of that final cost objective, and (2) the overhead costs of productive activities and other indirect costs related to the project based on the contractor's cost accounting practice or applicable Cost Accounting Standards for allocation of indirect costs.

(b) IR&D and B&P cost pools for a segment consist of the project costs plus allocable home office IR&D and B&P costs.

(c) When the costs of individual IR&D or B&P efforts are not material in amount, these costs may be accumulated in one or more project(s) within each of these two types of effort.

(d) The costs of any work performed by one segment for another segment shall not be treated as IR&D costs or B&P costs of the performing segment unless the work is a part of an IR&D or B&P project of the performing segment. If such work is part of a performing segment's IR&D or B&P project, the project will be transferred to the home office to be allocated in accordance with paragraph (e) below.

(e) The costs of IR&D and B&P projects accumulated at a home office shall be allocated to its segments as follows:

(1) Projects which can be identified with a specific segment(s) shall have their costs allocated to such segment(s).

(2) The costs of all other IR&D and B&P projects shall be allocated among all segments by means of the same base used by the company to allocate its residual expenses in accordance with 4 CFR Part 403; provided, however, where a particular segment receives

significantly more or less benefit from the IR&D or B&P costs than would be reflected by the allocation of such costs to the segment by that base, the Government and the contractor may agree to a special allocation of the IR&D or B&P costs to such segment commensurate with the benefits received. The amount of a special allocation to any segment made pursuant to such an agreement shall be excluded from the IR&D and B&P cost pools to be allocated to other segments and the base data of any such segment shall be excluded from the base used to allocate these pools.

(f) The costs of IR&D and B&P projects accumulated at a business unit shall be allocated to cost objectives as follows:

(1) Where costs of any IR&D or B&P project benefit more than one segment of the organization, the amounts to be allocated to each segment shall be determined in accordance with paragraph (e) above.

(2) IR&D and B&P cost pools which are not allocated under subparagraph (1) above shall be allocated to all final cost objectives of the business unit by means of the same base used by the business unit to allocate its general and administrative expenses in accordance with 4 CFR Part 410.50; provided, however, where a particular final cost objective receives significantly more or less benefit from IR&D or B&P costs than would be reflected by the allocation of such costs the Government and the contractor may agree to a special allocation of the IR&D or B&P costs to such final cost objective commensurate with the benefits received. The amount of special allocation to any such final cost objective made pursuant to such an agreement shall be excluded from the IR&D and B&P cost pools to be allocated to other final cost objectives and the particular final cost objective's base data shall be excluded from the base used to allocate these pools.

(g) Notwithstanding the provisions of paragraphs (d), (e) or (f), the costs of IR&D and B&P projects allocable to a home office pursuant to paragraph 420.50(d) may be allocated directly to the receiving segments, provided that such allocation not be substantially different from the allocation that would be made if they were first passed through home office accounts.

### § 420.60 Illustrations.

(a) Business Unit A's engineering department in accordance with its established accounting practice, charges administrative effort including typing to its overhead cost pool. In submitting a proposal the engineering department assigns several typists to the proposal project on a full time basis and charges the typists' time directly to the proposal project, rather than to its overhead pool. Because the engineering department under its established accounting practice does not charge the cost of typing directly to final cost objectives, the direct charge does not meet with the requirements of § 420.50(a).

(b) Company B has five segments. The company undertakes an IR&D project which is part of the IR&D plans of segments X, Y, and Z, and will be of general benefit to all five segments. The company designates Segement Z as the project leader in performing the project. In accumulating the costs, each segment allocates overhead to its part of the project but does not allocate segment G&A. The IR&D costs are then allocated to the home office by each segement. The costs are combined with other IR&D costs that benefit the company as a whole. The costs are allocated to all five segements by means of the same base by which the company allocates its residual home office expense costs to all segments. This practice meets the requirements of § 420.40(b), .50(e)(2), and .50(f)(1).

(c) Business Unit C normally accounts for its B&P effort by individual project. It accumulates directly allocated costs and departmental overhead costs by project. The business unit also submits large numbers of bids and proposals whose individual costs of preparation are not material in amount. The business unit collects the cost of these efforts under a single project. Since the cost of preparing each individual bid and proposal is not material, the practice of accumulating these costs in a single project meets the requirements of § 420.50(c).

(d) Segment D requests that Segment Y provide support for a Segment D IR&D project. The work being performed by Y is similar in nature to Y's normal product and is not part of its annual IR&D plan. Segment Y allocates to the project all costs it allocates to other final cost objectives, including G&A expense. Segment Y then directly transfers the cost of the project to Segment D in accordance with it normal intersegment transfer procedure. This accounting treatment meets the requirements of § 420.50(d) and 4 CFR Part 410.

(e) Contractor E has six operating segments and a research segment. The research segment performs work under (i) research and development contracts, (ii) projects which are not part of its own IR&D plan but are specifically in support of other segments' IR&D projects, and (iii) IR&D projects for the benefit of the company as a whole.

(1) The research segment directly allocates the cost of the projects in support of another segment's IR&D projects, including an allocation of its general and administrative expenses, to the receiving segment. This practice meets the requirements of § 420.50(d).

(2) The costs of the IR&D projects which benefit the company as a whole exclude any allocation of the research segment's general and administrative expenses and are transferred to the home office. The home office allocates these costs on the same base it uses to allocate its residual expenses to all seven segments. This practice meets the requirements of § 420.50(e)(2) and (f)(1).

(f) Company F accumulates at the home office the costs of IR&D and B&P projects which generally benefit all segments of the company except Segment X. The company and the contracting officer agree that the nature of the business activity of Segment X is such that the home office IR&D and B&P effort is neither caused by nor provides any benefit to that segment. For the purpose of allocating its home office residual expenses, the company uses a base as provided in 4 CFR Part 403. For the purpose of allocating the home office IR&D and B&P costs, the company removes the data of Segment X from the base used for the allocation of its residual expenses. This practice meets the requirements of § 420.50(e)(2).

(g) Company G has 10 segments. Segment X performs IR&D projects, the results of which benefit it and 2 other segments but none of the other seven segments. The cost of those projects performed by Segment X are transferred to the home office and allocated to the three segments on the basis of the benefits received by the three segments. This practice meets the requirements of § 420.50(e)(1) and .50(f)(1).

### § 420.70 Exemptions.

This Standard shall not apply to contractors who are subject to the provisions of Federal Management Circular 74-4 (Principles for Determining Cost Applicable to Grants and Contracts with State and Local Governments.)

### § 420.80 Effective Date.

(a) The effective date of this Cost Accounting Standard is March 15, 1980.

(b) This Cost Accounting Standard shall be followed by each contractor as of the start of his second fiscal year beginning after the receipt of a contract

to which this Cost Accounting Standard is applicable.

**Arthur Schoenhaut,**

*Executive Secretary.*

[FR Doc. 79-29863 Filed 9-24-79; 8:45 am]

BILLING CODE 1620-01-M

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Parts 213, 230, 250, 300, 302, 315, 316, 351, 410, 531, and 591

### Civil Service Reform; Final Regulations

**AGENCY:** Office of Personnel Management.

**ACTION:** Final regulations.

**SUMMARY:** These final regulations, published as interim regulations on April 6, 1979, implement sections 3(5) of the Civil Service Reform Act of 1978 and 5 U.S.C. 1104 and, adopted unchanged from the interim ones, provide general bases for delegation and for entering into agreements with the Office which will permit agencies to take specific personnel actions without prior approval.

**EFFECTIVE DATE:** September 25, 1979.

**FOR FURTHER INFORMATION CONTACT:** Lynn Waldorf, Analysis and Development Division, Agency Compliance and Evaluation, Office of Personnel Management, Room 5478, 1900 E Street, NW., Washington, D.C 20415, (202) 632-4473.

**SUPPLEMENTARY INFORMATION:**

#### Background and Delegations

In complying with sections 3(5) of the Civil Service Reform Act of 1978 and 5 U.S.C. 1104, the Office of Personnel Management published interim regulations to provide for delegation of greater personnel management authority to agencies by removing prior OPM approval and delegating authority on a blanket basis and an agency-by-agency written agreement basis. These interim regulations were published in the **Federal Register** on April 6, 1979 (44 FR 20699) and provide general bases for delegation and specifically, delegate to agencies the authority to appoint severely physically handicapped persons under Schedule A, § 213.3102(u) without prior Office approval (the language of the Schedule A authorities § 213.3102 (t) and (u), has also been amended to reflect the provisions of Executive Order 12125); to approve training plans for disabled veterans; to waive controls on non-Government training for employees; to determine remote worksite "normal" commuting allowances and to enter into agreements with the Office which permit them to take the following additional actions without prior approval: (1) establishment of positions under the Schedule C authority at GS-15 and below; (2) modification of selection procedures for excepted positions; (3) waiver of time-in-grade restrictions for competitive employees; (4) appointments without competitive examination in rare cases; (5) bringing excepted positions or units of public or private enterprise into the competitive service; (6) appointment of individuals at grades GS-11 and above at pay rates above the minimum for the grade based on superior qualifications; (7) establishment of smaller competitive areas in reduction-in-force; (8) excepted appointment of aliens in the absence of qualified citizens to positions for which competitive examining authority has been delegated; and (9) grant exceptions to prohibition on payment of premium pay for periods of training.

Additionally, the Federal Personnel Manual, civil service rules, and other appropriate issuances will be changed to allow delegation on a blanket basis of authority to assign (detail) excepted employees serving in Schedules A and B to competitive duties and delegation through delegation agreements of the following authorities: (1) assignment (detail) of excepted employees serving under Schedule C and statutory authorities to competitive positions; (2) competitive examining when an agency is the sole or predominant user of positions and including (a) approval of selective and quality ranking factors; (b) veteran passover; (c) ruling on objections to eligibles; (d) suitability and loyalty favorable determinations; (e) appointment of aliens; (f) conversion to career of employees formerly within reach on a register; and (g) restriction of consideration to one sex; (3) payment of travel and transportation to first post of duty for positions for which a shortage of eligibles exists; (4) payment of travel expenses for interviews for positions at grades GS-13 and below; (5) establishment of training agreements; (6) classification of 20 or more positions; (7) conduct of onsite evalutation function; (8) waiving limits on non-Government facility training; and (9) exceptions to training restrictions of law not covered by other delegations.

OPM will provide guidance to implement these delegations, set minimum standards of performance, and monitor agency use to assure that all personnel actions follow merit principles.

#### Comments

During the 60 day comment period which ended June 5, 1979, the Office of Personnel Management received general comments that expressed concern that too many authorities are being delegated too soon without follow-up on how delegation is working and that blanket and agreement authorities will be subject to serious abuse and politicizing of the civil service on the part of the agencies. In addition, the comments stressed that OPM must maintain an adequate oversight system to ensure that all rules, regulations, Executive orders, etc., are being carried out properly by agencies.

The one specific authority that was singled out in the comments was OPM's decision to delegate to an agency through a delegation agreement the authority to establish smaller competitive areas in a reduction-in-force (RIF). Those who commented felt that passing this regulation would allow management to utilize a one-person RIF procedure that would punish a career civil servant whom management saw as a threat to the agency and also would strip a career employee of job retention rights under the RIF procedure.

#### General Comments

The risk that agencies might abuse the authority delegated to them was recognized in the intitial consideration of delegation by both Congress and the Civil Service Commission/Office of Personnel Management (CSC/OPM). While authorizing delegation, the Civil Service Reform Act (CSRA) also charged OPM with establishing and maintaining an oversight program to ensure that agencies comply with all applicable laws, rules, and regulations in administering the delegated authorities. The Act also set up a Special Counsel in the Merit Systems Protection Board to investigate merit abuse and to provide protection for whistle-blowers, as well as to provide for audits by GAO. The combination of these safeguards, along with the fact that agencies must adhere to FPM guidelines, has the effect of reducing the risk of abuse. The balancing of minimized potential for abuse against substantial improvement in agency flexibility and responsiveness justifies the continued delegation of these authorities.

In keeping with the oversight requirement, OPM has instructed agencies that for each action taken, they must record the type of action; the processing time; the name of the person who authorized the final action; the date of the decision; and a brief statement

citing the basis for the decision. These records must be available for audit by OPM and agency evaluators for at least 2 years, and each agency must have a means of internally evaluating the use and proper application of the authorities. OPM will systematically monitor the use of these authorities on a continuing basis.

If OPM finds that any action taken by an agency is contrary to law, rule, or regulation, it will direct the agency to take appropriate corrective action. Where a pattern of error conclusively demonstrates either that the agency or one of its activities is unable to successfully manage the authorities, OPM will have the option of temporarily suspending, modifying or withdrawing any delegated authority.

In addition, OPM will conduct a study of the results of increased delegation in a cross-section of agency installations. The objectives of this study include determining whether delegations of authority to agencies are perceived as helping managers to do their jobs better; determining whether delegation has reduced delays affecting agency personnel actions; and identifying problems agencies are having in realizing the benefits of delegation or in applying newly delegated authorities.

Specific Comment

In the case of delegating authority to agencies to establish smaller competitive areas, OPM developed an interim regulation to permit delegation of this authority on an agency-by-agency written agreement basis. This means an agency will receive the authority only through an agreement developed between an agency headquarters and OPM. The agreement will set forth the conditions under which the agency can apply this authority and the performance standards and oversight systems to be used by the agency and OPM in monitoring the authority.

If an agency assumes this authority under the agreement, it will be able to establish, without prior OPM approval, competitive areas smaller than the organizational and geographic minimums now described in the Federal Personnel Manual. However, this does not mean there will be no standard or that agencies will be able to define competitive areas "any way they please." Rather, any competitive area established by an agency under agreement must meet one of two criteria: (1) the organization or geographic FPM minimums, or (2) the test of adequate competition when the agency uses the authority in a RIF.

The latter criterion is, of course, a matter of judgment; but such a change is consistent with the basic thrust of the Civil Service Reform Act. The new delegation simply recognizes the possibility that in specific circumstances, such as concentration of a given occupation in one part of a larger competitive area, a RIF affecting that occupation need not involve more than a limited area to provide adequate competition.

As agencies prepare for and conduct RIFs, their actions will be subject to review by OPM. Further, employee appeals of RIF actions to the Merit Systems Protection Board may include the competitive area used by the agency as an issue. Thus, competitive area determinations will be subject to the same review, and correction where necessary, as they are now and have been in the past.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR is amended as set forth below:

## PART 213—EXCEPTED SERVICE

(1) Section 213.102 is revised to read as follows:

**§ 213.102 Identification of positions in Schedule A, B, or C.**

The Office of Personnel Management shall decide whether the duties of any particular position are such that it may be filled as an excepted position under Schedule A, B, or C. Authority to establish positions under Schedule C may be delegated under terms of an agreement between the Office and employing agencies. Establishment of Schedule C positions under terms of such an agreement would be subject to existing criteria as set forth in § 213.3301, to quotas established by the Office, and to any additional instructions prepared by OPM.

(2) In § 213.3102, paragraphs (t), (u), and (bb) are revised to read as follows:

**§ 213.3102 Entire executive civil service.**

* * * * *

(t) Positions when filled by mentally retarded persons in accordance with written agreements executed between an agency and the Commission. Provisions to be included in such agreements are specified in the Federal Personnel Manual. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by the Office.

(u) Positions when filled by severely physically handicapped persons who: (1) Under a temporary appointment have demonstrated their ability to perform the duties satisfactorily; or (2) have been certified by counselors of State vocational rehabilitation agencies or the Veterans Administration as likely to succeed in the performance of the duties. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by the Office.

* * * * * *

(bb) Positions when filled by aliens in the absence of qualified citizens. Appointments under this authority are subject to prior approval of the Office except when the positions to be filled are covered by delegated examining authority under agreement with the Office.

## PART 230—ORGANIZATION OF THE GOVERNMENT FOR PERSONNEL MANAGEMENT

(3) Section 230.201 is revised to read as follows:

**§ 230.201 Standards and requirements for agency personnel actions.**

In taking a personnel action authorized by this chapter, each agency shall comply with the qualification standards and regulations issued by the Office of Personnel Management, the instructions published by the Office of Personnel Management in the Federal Personnel Manual, and the provisions of any agreement developed between the Office and the agency in connection with delegation of a specific authority.

## PART 250—PERSONNEL MANAGEMENT IN AGENCIES

(4) Part 250 is added as follows:

Subpart A—Personnel Management Responsibilities.

Sec.

250.101 Delegation agreements.

250.102 Authority to take corrective action or revoke agreement.

**Authority:** 5 U.S.C. 1104; Pub. L. 95-454; 92 Stat. 1120 and Sec. 3(5); Pub. L. 95-454; 92 Stat. 1120.

### Subpart A—Personnel Management Responsibilities

**§ 250.101 Delegation agreements.**

In certain circumstances, an agency will receive authorities through a delegation agreement developed between the agency headquarters and OPM. The agreement will set forth the conditions for application of a particular authority (or authorities). This

agreement will include a description of performance standards and the system of oversight to be used in agency and OPM monitoring of authority use. An agreement will be for an initial period not to exceed two years. Renewals may be for an indefinite period unless modified, suspended or revoked for abuse.

**§ 250.102 Authority to take corrective action, suspend, or revoke agreement.**

If OPM finds that the agency has taken an action under a delegated agreement contrary to law, rule, regulation or standard, it may require the agency to take corrective action. If, in the judgment of OPM, the agency is not adhering to the provisions of the delegated agreement, it may suspend or revoke the agreement at any time.

## PART 300—EMPLOYMENT (GENERAL)

(5) Section 300.603 is revised to read as follows:

**§ 300.603 Exceptions to restrictions.**

(a) Section 300.602 does not prevent the advancement of an employee when:

(1) The advancement is in accordance with a training agreement which has been approved by the Office or established under agreement with the Office; however, an agency may not make promotions of more than 2 grades in 1 year solely on the basis of a training agreement or series of training agreements;

(2) The advancement is to any grade or level up to that from which the employee has ever been demoted or separated by any agency because of a reduction in force;

(3) The employee is within reach on a register for competitive appointment to the position to be filled; or

(4) The head of the agency or his or her designee, with the prior approval of the Office or under agreement negotiated with the Office, authorizes the advancement to avoid undue hardship or inequity, in an individual case of meritorious nature.

(b) Section 300.602 (a) and (b) does not prevent the advancement of an employee who has 1 year of service in a position two grades lower than the position to be filled if there is no position in the normal line of promotion that is one grade lower than the position to be filled.

(c) Section 300.602(c) does not prevent the advancement of an employee to a position at GS–5 or below which he or she held previously or to which he or she could have been advanced previously under that paragraph.

## PART 302—EMPLOYMENT IN THE EXCEPTED SERVICE

(6) Section 302.105 is revised to read as follows:

**§ 302.105 Special agency plans.**

An agency having a position subject to this part may establish a system for making appointments which will result in granting to eligible persons the preference or priority consideration referred to in sections 1302(c) or 8151 of title 5, United States Code, but which does not conform to all the procedural requirements set forth in this part. However, an agency may not put such a system into effect unless it has entered into an agreement with the Office permitting establishment of such systems, or has obtained prior Office approval for the particular system to be used.

## PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

(7) In § 315.604, paragraph (a) is revised to read as follows:

**§ 315.604 Employment of disabled veterans who have completed a training course under chapter 31 of title 38, United States Code.**

(a) When a disabled veteran satisfactorily completes an approved course of training prescribed by the Veterans Administration under chapter 31, title 38, United States Code, any agency may appoint the veteran noncompetitively to the position of class of positions for which trained.

* * * * *

(8) Section 315.703 is revised to read as follows:

**§ 315.703 Employees formerly reached on a register.**

(a) *Employee coverage.* An employee who was serving in a position when his or her name was within reach for career or career-conditional appointment on a register appropriate for that position may be converted to career or career-conditional employment when:

(1) The employee's name was included on an appropriate certificate issued while the employee was serving in the position, or reconstruction of the appropriate register verifies that the employee would have been within reach;

(2) The register was being used for career and career-conditional appointments when he or she was reached;

(3) He or she has been continuously employed since being reached;

(4) Conversion is initiated either before the expiration of the register or during a period of continuous service since the employee was reached; and

(5) When the employee is a nonpreference eligible who was first reached after February 1, 1955, the Office, or the agency, in accordance with an agreement with the Office, determines that satisfactory reasons existed for passing over any preference eligible who preceded the employee on the register when he or she was reached and who is still within reach and available for appointment.

(b) *Tenure on conversion.* An employee whose appointment is converted under paragraph (a) of this section becomes:

(1) A career-conditional employee except as provided in paragraph (b)(2) of this section;

(2) A career employee when he or she has completed the service requirement for career tenure or is excepted from it by § 315.201(c).

(c) *Acquisition of competitive status.* An employee whose employment is converted to career or career-conditional employment under this section acquires a competitive status automatically on completion of probation.

## PART 316—TEMPORARY AND TERM EMPLOYMENT

(9) Section 316.601 is revised to read as follows:

**§ 316.601 Appointment without competitive examination in rare cases.**

(a) An agency may make an appointment without competitive examination when:

(1) The duties and compensation of the position are such, or qualified persons are so rare, that in the interest of good civil service administration the position cannot be filled through open competitive examination;

(2) The person to be appointed meets all applicable qualification requirements for the position; and

(3) The appointment is specifically authorized by the Office or is made under an agreement between the agency and the Office providing for such appointments.

(b) A person appointed under paragraph (a) of this section does not acquire a competitive status on the basis of that appointment.

(c) When a position filled under paragraph (a) of this section becomes vacant, the agency may fill the vacancy by another appointment under paragraph (a) of this section only if the conditions of paragraph (a)(3) of this section are again met.

(10) Section 316.701 is revised to read as follows:

**§ 316.701 Public or private enterprise taken over by Government.**

(a) When the Office, or an agency acting under an agreement with the Office, finds that the Federal Government has taken over a public or private enterprise, or an identifiable unit thereof, and that a position has thereby been brought into the competitive service, the agency may retain the incumbent of the position.

(b)(1) When an agency retains an employee under paragraph (a) of this section in a position which it determines to be a continuing one, the agency shall decide on a timely basis whether it will convert that individual's employment to career or career-conditional under § 315.701 of this chapter.

(2) When an agency decides not to effect conversion under § 315.701 of this chapter, or the employee fails to qualify for conversion, the agency, in its discretion, may retain the employee as a status quo employee.

(c) When an agency retains an employee under paragraph (a) of this section in a position which it determines to be a noncontinuing one, the agency shall give the employee a temporary limited appointment under the conditions prescribed by the Office in the Federal Personnel Manual.

(11) Section 316.702 is revised to read as follows:

**§ 316.702 Excepted positions brought into the competitive service.**

(a) When the Office, or an agency acting under an agreement with the Office, finds that an excepted position has been brought into the competitive service by statute, Executive order, or the revocation of an exception under Civil Service Rule VI (§ 6.6 of this chapter), or is otherwise made subject to competitive examination, the agency may retain the incumbent of the position.

(b)(1) When an agency retains an employee under paragraph (a) of this section who was serving in a permanent excepted position under an appointment not limited to 1 year or less, the agency shall decide on a timely basis whether it will convert that employee's appointment to career or career-conditional under § 315.701 of this chapter.

(2) When the agency decides not to effect conversion under § 315.701 of this chapter, or the employee fails to to qualify for conversion, the agency, in its discretion, may retain the employee as a status quo employee.

(c) An employee retained under paragraph (a) of this section who was serving in an excepted position under an appointment limited to 1 year or less is permitted to serve temporarily under the conditions prescribed by the Office in the Federal Personnel Manual.

## PART 351—REDUCTION IN FORCE

(12) Section 351.402 is revised to read as follows:

**§ 351.402 Competitive area.**

(a) Each agency shall establish competitive areas in which employees compete for retention under this part.

(b) The standard for a competitive area is that it include all or that part of an agency in which employees are assigned under a single administrative authority. A competitive area in the departmental service meets this standard when it covers a primary subdivision of an agency in the local commuting area. A competitive area in the field service meets this standard when it covers a field installation in the local commuting area.

(c) An agency may establish a competitive area larger than one that meets the standard named in paragraph (b) of this section. In exceptional circumstances, and with the prior approval of the Office, an agency may establish a competitive area smaller than one that meets the standard named in paragraph (b) of this section. Agencies which have been delegated individual authority to do so may establish competitive areas smaller than named in paragraph (b) without prior approval of the Office.

(d) An agency may combine two or more competitive areas for initial competition in an enlarged competitive level or levels without correspondingly combining the areas for assignments between competitive levels. When an agency combines areas for initial competition only, it may limit competition for assignments between competitive levels to (1) the enlarged area, (2) a single competitive area, or (3) an area larger than a single area but smaller than the enlarged area.

## PART 410—TRAINING

(13) Section 410.506 is revised to read as follows:

**§ 410.506 Waiver of limitations on training of employees through non-Government facilities.**

(a) Subject to chapter 41 of title 5, United States Code, and this part, an employee having less than one year of current, continuous civilian service in the Government is eligible for training by, in, or through non-Government facilities on a finding by the head of his or her agency that postponement of the training until the employee has completed one year of current, continuous civilian service in the Government would be contrary to the public interest.

(b) The head of an agency may waive the limitations in section 4106(a) (1) and (3) of title 5, United States Code, for:

(1) An employee assigned to training by, in, or through a non-Government facility that does not exceed 40 hours within a single program;

(2) An employee receiving training provided by a manufacturer as a part of the normal service incident to initial purchase or lease of its products under procurement contract; and

(3) An employee receiving training through a correspondence course.

(c) The head of an agency may waive the limitation in section 4106(a)(3) of title 5, United States Code for individual employees when the following conditions are met:

(1) The employee is serving under a career or career-conditional appointment or an appointment without time limitation in the excepted service;

(2) The training would not cause the total amount of the employee's training through non-Government facilities in the current decade of service to exceed two years; and

(3) A record of use of the authority is to be inserted in the employee's Official Personnel Folder, showing:

(i) A description of the training in terms of its substance (e.g., hydrology), level (e.g., graduate), and facility to be used;

(ii) The amount of training through non-Government facilities already received in the employee's current decade of service which counts toward the limitation;

(iii) The period for which the waiver is required (specifying month and year in which it is to begin and end);

(iv) If the training is primarily for application to a future assignment, a description of its major duties;

(v) The projected beginning of the employee's next decade of service; and

(vi) A statement of that agency's reasons for believing that application of the limitation would be contrary to the public interest, including a description of the effect of postponement of the training's completion until the next decade of service.

(d) The head of an agency may waive the limitation in section 4106(a)(3) of title 5, United States Code, for an employee serving in a career-related work-study program when all of the following conditions are met:

(1) The employee is serving under a Schedule B appointment which allows the agency to carry the employee on its rolls during the non-work periods of the

program and adequate opportunity for the employee to fulfill the obligation to continue in the service of the agency as required by section 4108 of title 5, United States Code;

(2) Graduate education shall not be covered by the waiver;

(3) The employee's expenses of college training that are being paid are limited to the expenses covered by section 4109(a)(2) of title 5, United States Code; and

(4) Information is recorded in the employee's Official Personnel Folder, recording the waiver, the nature of the program (e.g., Federal Junior Fellowship), and the length of training encompassed by the program.

* * * * *

(14) In § 410.508, paragraph (a) is revised to read as follows:

**§ 410.508 Agreements to continue in service.**

(a) For the purpose of administering section 4108 of title 5, United States Code:

(1) The period of time an employee is required to agree to continue in the service of the agency begins on the first workday after the end of the training covered by the agreement; and

(2) "Additional expenses incurred by the Government in connection with his training" means expenses of training paid under section 4109(a)(2) of title 5, United States Code, but not salary, pay, or compensation.

* * * * *

(15) Section 410.602 is revised to read as follows:

**§ 410.602 Prohibition on payment of premium pay.**

(a) Except as provided by paragraph (b) of this section, no funds appropriated or otherwise available to an agency may be used for the payment of premium pay to an employee engaged in training by, in, or through Government facilities or non-government facilities.

(b) The following are excepted from the provision in paragraph (a) of this section prohibiting the payment of premium pay:

(1) An employee given training during a period of duty for which he or she is already receiving premium pay for overtime, night, holiday, or Sunday work, except that this exception does not apply to an employee assigned to full-time training at institutions of higher learning;

(2) An employee given training at night because situations which he or she must learn to handle occur only at night;

(3) An employee given training on overtime, on a holiday, or on a Sunday because the costs of the training, premium pay included, are less than the costs of the same training confined to regular work hours;

(4) An employee given training during periods of temporary assignment covered by § 550.162(c) of this chapter.

(5) An employee given training during a period not otherwise covered by a provision of this paragraph where premium pay is authorized by the employing agency as an exception from the provision in paragraph (a) of this section under authority delegated to it by the Office of Personnel Management; and

(6) An employee given training during a period not otherwise covered by a provision of this paragraph where premium pay is authorized by the Office of Personnel Management in response to a request of the employing agency for an exception from the provision in paragraph (a) of this section.

(c) An employee who is excepted under paragraph (b) of this section is eligible to receive premium pay in accordance with the pay authorities applicable to him or her.

## PART 531—PAY UNDER THE GENERAL SCHEDULE

(16) Paragraph (b) of § 531.203 is revised to read as follows:

**§ 531.203 General provisions.**

* * * * *

(b) *Superior qualifications appointments.* (1) A "superior qualifications appointment" means an appointment to a position in Grade 11 or above of the General Schedule made, with the prior approval of the Office or under an agreement between the agency and the Office (except for positions in the Library of Congress), at a rate above the minimum rate of the appropriate grade under authority of section 5333 of title 5, United States Code because of the superior qualifications of the candidate.

(2) An agency may make a superior qualifications appointment by new appointment or by reemployment except that when made by reemployment, the candidate must have a break in service of at least 90 calendar days from his or her last period of Federal employment or employment with the Government of the District of Columbia (other than (i) employment under an appointment as an expert or consultant under section 3109 of title 5, United States Code, (ii) employment under a temporary appointment effected primarily in furtherance of a post-doctoral research program, or effected as part of predoctoral or postdoctoral training program during which the employee receives a stipend, or employment under a temporary appointment of a graduate student when the work performed by the student is the basis for completing certain academic requirements for an advanced degree, (iii) employment as a member of the Commissioned Corps of the National Oceanic and Atmospheric Administration or the Commissioned Corps of Public Health Service, or (iv) employment which is neither full-time employment nor the principal employment of the candidate).

## PART 591—ALLOWANCES AND DIFFERENTIALS

(17) Part 591, Subpart C, is revised in its entirety to read as follows:

**Subpart C—Allowance Based on Duty at Remote Worksites**

Sec.

591.301 Purpose.
591.302 Coverage.
591.303 Responsibilities of agencies and the Office of Personnel Management.
591.304 Criteria for determining remoteness.
591.305 Allowance rates.
591.306 Employee eligibility for an allowance.
591.307 Payment of allowance rate.
591.308 Relationship to additional pay payable under other statutes.
591.309 Effective date for payment of allowance.
591.310 Effect of regulations in this subpart on allowances established under previous statutes.
Appendix A—Daily transportation allowance schedule commuting over land by private motor vehicle to remote duty posts.
Appendix B—Daily inconvenience or hardship allowance schedule, commuting over land by motor vehicle to remote duty posts.

Authority: 5 U.S.C. 5942; sec. 8, E.O. 11609, 3 CFR 1971–1975 Comp., p. 591; 5 U.S.C. 1104, Pub. L. 95–454, 92 Stat. 1120 and Sec. 3(5) of Pub. L. 95–454; 92 Stat. 1120.

### Subpart C—Allowance Based on Duty at Remote Worksites

**§ 591.301 Purpose.**

This Subpart prescribes the regulations required by § 5942 of title 5, United States Code, for the payment of an allowance based on duty at remote worksites.

**§ 591.302 Coverage.**

(a) *Agencies.* This Subpart applies to executive departments as defined in section 101 of title 5, United States Code, and to independent establishments as defined in section 104 of title 5, United States Code, but does not apply to Government corporations as defined in section 103 of title 5, United States Code.

(b) *Employee.* This Subpart applies to each employee assigned to a permanent

duty station at or within a designated remote duty post, except an employee who is a permanent or temporary resident at the remote duty post, and except foreign nationals employed at remote duty posts in foreign countries.

**§ 591.303 Responsibilities of agencies and the Office of Personnel Management.**

(a) Each agency is responsible for:

(1) Establishing and subsequently adjusting, in accordance with the provisions of this subpart, an allowance for each remote duty post at which the agency has employees and which meets the criteria in paragraph (a)(1) of § 591.304, as restricted by subsection (b) of § 591.304;

(2) Advising the Office of Personnel Management of each establishment or adjustment of an allowance under paragraph (a)(1) of this section, and of the basis for such establishment or adjustment;

(3) Submitting a recommendation to the Office of Personnel Management to establish or adjust an allowance for each remote duty post at which the agency has employees and which meets the criteria in paragraph (a)(2) or (a)(3) or paragraph (c) of § 591.304; and

(4) Advising the Office of Personnel Management in a timely manner of any changes in a duty post or commuting conditions or other factors that may affect an allowance that has been authorized by the Office of Personnel Management under paragraph (b) of this section.

(b) The Office of Personnel Management is responsible for:

(1) Establishing and subsequently adjusting, in accordance with the provisions of this Subpart, an allowance for each remote duty post which does not meet the criteria in paragraph (a)(1) of § 591.304, but does meet the criteria in paragraph (a)(2) or (a)(3) or paragraph (c) of § 591.304;

(2) Reviewing each establishment or adjustment of an allowance by an agency under paragraph (a)(1) of this section to determine if such establishment or adjustment is in accordance with the provisions of this Subpart; and

(3) Directing the termination or adjustment of any allowance determined by the Office to be not in accordance with the provisions of this Subpart, which termination or adjustment shall be implemented by the agency without delay.

(c) Each allowance which has been authorized by the Office of Personnel Management or the Civil Service Commission on or before February 1, 1979, and which is authorized for a remote duty post which meets the criteria in paragraph (a)(1) of § 591.304, shall be subject to further adjustment by the agency under paragraph (a)(1) of this section as if such allowance had been initially authorized by the agency under that paragraph.

**§ 591.304 Criteria for determining remoteness.**

(a) Except as provided by paragraphs (b) and (c) of this section, a duty post shall be determined to be a remote duty post for basic allowance eligibility purposes when:

(1) Normal ground transportation (e.g., automobile, train, bus) is available on a daily basis and the duty post is 50 miles, or more, one way from the nearest established community or suitable place of residence. Distance shall be computed in road or rail miles over the most direct route traveled from the center of the city, or other appropriate point for large cities or areas; or

(2) Daily commuting is impractical because the location of the duty post and available transportation are such that agency management requires employees to remain at the duty post for their workweek as a normal and continuing part of the conditions of employment; or

(3) Transportation may be accomplished only by boat, aircraft, or unusual conveyance, or under extraordinary conditions, and the distance, time, and commuting conditions result in expense, inconvenience, or hardship significantly greater than that encountered in metropolitan area commuting. A determination may only be made on an individual location basis.

(b) Except when the criteria in paragraph (a)(2) or (3) of this section are met, the criteria in paragraph (a)(1) of this section are not met:

(1) When the duty post is within the boundary of a metropolitan area, a developed urban area, or community of sufficient size to provide adequate consumer facilities; and

(2) When the duty post is within 50 miles of the center of, or other appropriate point for large cities or areas, a metropolitan area, a developed urban area, or community of sufficient size to provide adequate consumer facilities. (This generally excludes a post of duty within 50 miles of any city of 5,000 or more population.)

(c) A determination of remoteness for a duty post outside the 50 United States will be made on an individual location basis, taking into consideration the distance, time, and commuting conditions, and the extent to which these factors result in significant expense, inconvenience, or hardship.

**§ 591.305 Allowance rates.**

(a) *General.* An allowance rate may not exceed $10 a day. An allowance rate shall be established for each post of duty determined to be remote under § 591.304, and shall be terminated or adjusted as warranted. In determining the amount of the allowance rate, the following shall be considered:

(1) Transportation expenses incurred in commuting to the remote post of duty as compared to transportation expenses (including cost of public transportation service) representative of those incurred in metropolitan areas within the United States or overseas as appropriate as periodically determined by the Office of Personnel Management.

(2) Expenses incurred for lodging, meals, other services, and miscellaneous expenses when it is not feasible for an employee to commute daily as at duty posts determined under § 591.304(a)(2).

(3) Inconvenience or hardship associated with commuting to the remote duty post taking into account such factors as travel time, road conditions and terrain, type and quality of vehicle, and climate conditions, and conditions that exist at those duty posts determined by the Office of Personnel Management to meet the criteria in § 591.304(a)(2).

(4) Operational or workload demands, weather conditions, or other situations which require an employee to report to or remain at this post of duty substantially beyond his or her normal arrival or departure time with respect to those duty posts meeting the criteria in § 591.304(a)(2).

(b) *Authorized allowance rates.* Each authorized allowance rate for each duty post may consist of up to three parts, separately stated as appropriate, and the authorized allowance rate shall be paid as provided in § 591.306, but no employee may be paid more than $10 a day. The parts which make up the authorized allowance rate are:

(1) *Transportation allowance.* (i) *Commuting by private motor vehicle.* A transportation allowance schedule showing the daily transportation expense rate to be paid under the distances and conditions described, when commuting by private motor vehicle is set out as Appendix A to this Subpart and is incorporated in and made part of this section.

(ii) *Travel by commercial or Government-provided transportation.* The transportation allowance shall be limited to the cost of the service less normal cost for public transportation service in metropolitan areas.

(2) *Inconvenience or hardship allowance.* An allowance rate to compensate for hardship or

inconvenience may not be considered unless the travel time normally exceeds one hour one way between the closest established community or suitable place or residence and the remote duty post. An allowance schedule covering land travel by motor vehicle, showing the daily rates to be paid under the time factors and conditions described, for inconvenience or hardship combined, is set out as Appendix B to this subpart and is incorporated in and made part of this section.

(3) *Other commuting situations.* Notwithstanding paragraphs (b)(1) and (b)(2) of this section, when commuting is by boat, aircraft or an unusual conveyance, or under extraordinary conditions by motor vehicle, or involving factors or conditions unique to the duty post, the Office of Personnel Management shall establish the allowance based on the facts and circumstances of that individual remote duty post.

(4) *Miscellaneous.* When daily commuting is impractical as determined under § 591.304(a)(2):

(i) The Office of Personnel Management may authorize a miscellaneous allowance, the amount to depend on such factors as miscellaneous expenses, living conditions that exist at the duty post, or inconvenience or hardship that may be associated with this type of employment environment. When employees are required to pay a fee for lodging, meals, or other services at the remote duty post, the miscellaneous allowance shall at least equal the amount charged for the use of facilities and services.

(ii) On those days when operational or workload demands, weather conditions, or other situations result in employees reporting to or remaining at the remote duty post substantially beyond normal arrival or departure time, the maximum daily allowance rate of $10 shall be paid.

**§ 591.306 Employee eligibility for an allowance.**

(a) An authorized allowance rate shall be paid to each employee with a permanent duty station at or within a remote post of duty approved under § 591.304, regardless of type of appointment or work schedule, only (1) when the employee travels the prescribed minimum distance and time, or is subject to prescribed minimum inconvenience or hardship factors, while commuting from the nearest established community or suitable place of residence and the remote duty post, or (2) the employee remains at the worksite at the direction of management because daily commuting is impractical.

(b) An employee shall be paid an authorized allowance rate for those days on which he or she incurs unusual expense in commuting to a remote post of duty or for those days on which he or she is subject to extraordinary inconvenience or hardship during the commuting.

(c) An employee who resides permanently, or temporarily for his or her own convenience at a remote duty post is not eligible for an authorized allowance rate during his or her period of residence.

**§ 591.307. Payment of allowance rate.**

(a) An authorized allowance rate is earned on a daily basis; however, where appropriate for administrative convenience, the rate may be averaged taking into consideration the number of noncommuting days over a period of time, and paid for each workday, excluding days in a nonpay status and period of extended absence.

(b) The transportation allowance is paid only when expense is incurred and at the lowest rate consistent with available transportation.

(c) The inconvenience or hardship allowance is paid regardless of eligibility for the transportation expense part of the allowance rate when the employee is otherwise eligible.

(d) Except as provided under § 591.305(b)(4)(ii), when the necessity for remaining at the post of duty for the workweek is the basis for the allowance under § 591.304(a)(2), the allowance rate is paid for each full day, or prorated for each part of a day, that the employee remains at the duty post.

(e) The transportation allowance prescribed by paragraph (b)(1)(i) of § 591.305, or other allowance as may be prescribed for commuting by private motor vehicle, may not be paid unless the officially approved work schedule of the employee precludes use of the transportation services that may be available at lower cost.

(f) An employee, who normally commutes on a daily basis, will not be disqualified from receiving an authorized allowance when he or she is officially required to remain overnight at the remote duty post, for one or more days on a temporary basis, because of the schedule of operations or the nature of assigned work.

(g) When a remote duty post is determined by the Office of Personnel Management under paragraph (a)(3) or (c) of § 591.304 as being basically eligible for an allowance, the Office of Personnel Management will determine the basis for payment of the allowance rate taking into consideration the facts and circumstances associated with commuting to the remote duty post.

**§ 591.308 Relationship to additional pay payable under other statutes.**

An allowance authorized under this subpart is in addition to any additional pay or allowances payable under other statutes. It shall not be considered part of the employee's rate of basic pay in computing additional pay or allowances payable under other statutes.

**§ 591.309 Effective date for payment of allowances.**

When an allowance is authorized for a remote duty post, the authorization shall specify the effective date that an agency shall begin paying the allowance to its employees, except that a date earlier than January 8, 1971, may not be specified.

**§ 591.310 Effect of regulations in this subpart on allowances established under previous statutes.**

Regulations in this subpart do not require a reduction in the allowance rates authorized under previous statutes unless an adjustment is determined to be warranted on the basis of a change in facts and circumstances on which that previous allowance was established.

**Appendix A or Subpart C.—Daily Transportation Allowance Schedule, Commuting Over Land by Private Motor Vehicle to Remote Duty Posts**

**Schedule I.—Effective January 8, 1971, Through July 12, 1975**

| Round trip distance in excess of 50 miles | Degree A commuting conditions | Degree B commuting conditions | Degree C commuting conditions |
|---|---|---|---|
| up to 9 miles | $0.20 | $0.22 | $0.24 |
| 10 to 19 | .70 | .77 | .84 |
| 20 to 29 | 1.20 | 1.32 | 1.44 |
| 30 to 39 | 1.70 | 1.87 | 2.04 |
| 40 to 49 | 2.20 | 2.42 | 2.64 |
| 50 to 59 | 2.70 | 2.97 | 3.24 |
| 60 to 69 | 3.20 | 3.52 | 3.84 |
| 70 to 79 | 3.70 | 4.07 | 4.44 |
| 80 to 89 | 4.20 | 4.62 | 5.04 |
| 90 to 99 | 4.70 | 5.17 | 5.64 |
| 100 to 109 | 5.20 | 5.72 | 6.24 |
| 110 to 119 | 5.70 | 6.27 | 6.84 |
| 120 to 129 | 6.20 | 6.82 | 7.44 |
| 130 to 139 | 6.70 | 7.37 | 8.04 |
| 140 to 149 | 7.20 | 7.92 | 8.64 |
| 150 to 159 | 7.70 | 8.47 | 9.24 |
| 160 to 169 | 8.20 | 9.02 | 9.84 |
| 170 and over | 8.70 | 9.57 | [1] 10.00 |

**Schedule II.—Effective on or after July 13, 1975**

| Round trip distance in excess of 50 miles | Degree A commuting conditions | Degree B commuting conditions | Degree C commuting conditions |
|---|---|---|---|
| up to 9 miles | $0.30 | $0.32 | $0.34 |
| 10 to 19 | 1.05 | 1.12 | 1.19 |
| 20 to 29 | 1.80 | 1.92 | 2.04 |
| 30 to 39 | 2.55 | 2.72 | 2.89 |
| 40 to 49 | 3.30 | 3.52 | 3.74 |
| 50 to 59 | 4.13 | 4.32 | 4.68 |
| 60 to 69 | 4.80 | 5.12 | 5.44 |
| 70 to 79 | 5.55 | 5.92 | 6.29 |

Schedule II.—Effective on or after July 13, 1975—Continued

| Round trip distance in excess of 50 miles | Degree A commuting conditions | Degree B commuting conditions | Degree C commuting conditions |
|---|---|---|---|
| 80 to 89 | 6.30 | 6.72 | 7.14 |
| 90 to 99 | 7.05 | 7.52 | 7.99 |
| 100 to 109 | 7.80 | 8.32 | 8.84 |
| 110 to 119 | 8.55 | 9.12 | 9.69 |
| 120 to 129 | 9.30 | 9.92 | [1] 10.00 |
| 130 to 139 | [1] 10.00 | [1] 10.00 | [1] 10.00 |
| 140 to 149 | [1] 10.00 | [1] 10.00 | [1] 10.00 |
| 150 to 159 | [1] 10.00 | [1] 10.00 | [1] 10.00 |
| 160 to 169 | [1] 10.00 | [1] 10.00 | [1] 10.00 |
| 170 and over | [1] 10.00 | [1] 10.00 | [1] 10.00 |

1 Under the statute, $10 a day is the maximum allowance.

*Degree A Commuting Conditions*

Good paved roads; climatic conditions cause intermittent driving difficulty.

*Degree B Commuting Conditions*

Roads typically fair but may be good for part of distance or may be unpaved for short distances; climatic conditions during part of a season, in relation to terrain, contribute to additional cost.

*Degree C Commuting Conditions*

Fair to poor roads; unpaved for part of distance, or travel over range; hilly or mountainous terrain; climatic conditions during most of a season contribute to additional cost.

**Appendix B of Subpart C—Daily Inconvenience or Hardship Allowance Schedule, Commuting Over Land by Motor Vehicle to Remote Duty Posts**

| Round trip distance in excess of 2 hours | Degree A commuting conditions | Degree B commuting conditions | Degree C commuting conditions |
|---|---|---|---|
| up to 15 minutes | $0.50 | $0.63 | $0.75 |
| 16 to 30 | 1.00 | 1.25 | 1.50 |
| 31 to 45 | 1.50 | 1.88 | 2.25 |
| 46 to 60 | 2.00 | 2.50 | 3.00 |
| 61 to 75 | 2.50 | 3.13 | 3.75 |
| 76 to 90 | 3.00 | 3.75 | 4.50 |
| 91 to 105 | 3.50 | 4.38 | 5.25 |
| 106 to 120 | 4.00 | 5.00 | 6.00 |
| 121 to 135 | 4.50 | 5.63 | 6.75 |
| 136 to 150 | 5.00 | 6.25 | 7.50 |
| 151 to 165 | 5.50 | 6.88 | 8.25 |
| 166 to 180 | 6.00 | 8.13 | 9.00 |

*Degree A Commuting Conditions*

Good paved roads; climatic conditions, in relation to type and quality of vehicle, cause minimal discomfort during trip.

*Degree B Commuting Conditions*

Roads typically fair, but may be good for part of distance and possibly unpaved for short distances; climatic conditions during part of a season, in relation to type and quality of vehicle, result in moderate discomfort during trip.

*Degree C Commuting Conditions*

Fair to poor roads, unpaved for part of distance, climatic conditions during most of a season, in combination with such factors as type and quality of vehicle and terrain, result in unusual discomfort during trip.

(5 U.S.C. 1104; Pub. L. 95-454 Sec. 3(5))

[FR Doc. 79-29516 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

## 5 CFR Part 213

### Excepted Service; Department of Agriculture

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The purpose of this amendment is to reflect changes in the titles of four positions made necessary by the merger of the Rural Development Service into the Farmers Home Administration. The titles of two of these positions are changed from Confidential Assistant to the Administrator to Confidential Assistant to the Associate Administrator for Rural Development, Policy Management and Coordination. The third position's title is changed from Assistant to the Administrator (Assistant Administrator, Policy Coordination and Training) to Assistant to the Associate Administrator for Rural Development, Policy Management and Coordination (Assistant Administrator, Policy Coordination and Training). The last position's title is changed from Private Secretary to the Administrator to Private Secretary to the Associate Administrator for Rural Development, Policy Management and Coordination.

**EFFECTIVE DATE:** May 8, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 202-632-4533.

On position content: Phyllis Mowrey, Department of Agriculture, 447-7131.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3313(f) (8), (9) and (10) are added and (t) is revoked as set out below:

**§ 213.3313 Department of Agriculture.**

* * * * *

(f) *Farmers Home Administration.* * * *

(8) Two Confidential Assistants to the Associate Administrator for Rural Development, Policy Management and Coordination.

(9) One Assistant to the Associate Administrator for Rural Development, Policy Management and Coordination (Assistant Administrator, Policy Coordination and Training).

(10) Private Secretary to the Associate Administrator for Rural Development, Policy Management and Coordination.

* * * * *

(t) [Revoked]

(5 USC 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

[FR Doc. 79-29549 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

## 5 CFR Part 213

### Excepted Service; Department of Agriculture

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one position of Assistant to the Administrator, Rural Electrification Administration because it is confidential in nature.

**EFFECTIVE DATE:** May 29, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632-4533. On position content: Phyllis Mowrey, Department of Agriculture, 447-7131.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3313(b)(4) is amended as set out below:

**§ 213.3313 Department of Agriculture.**

* * * * *

(b) *Rural Electrification Administration.* * * *

(4) Three Assistants to the Administrator.

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

[FR Doc. 79-29559 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

## 5 CFR Part 213

### Excepted Service; Department of Agriculture

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment changes the title of a position in the Department of Agriculture from Confidential Assistant to the Assistant Secretary for International Affairs and Commodity Programs to Confidential Assistant to

the Under Secretary for International Affairs and Commodity Programs to reflect the current title of the superior.

**EFFECTIVE DATE:** August 7, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Phyllis Mowrey, Department of Agriculture, 447–7131.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3313(a)(12) is amended as set out below:

**§ 213.3313 Department of Agriculture.**

(a) Office of the Secretary. * * *

(12) One Confidential Assistant to the Under Secretary for International Affairs and Commodity Programs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79–29560 Filed 9–24–79; 8:45 am]

**BILLING CODE 6325–01–M**

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**5 CFR Part 213**

**Excepted Service; Department of Agriculture**

**AGENCT:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment revokes one Assistant Sales Manager, Office of the Assistant Secretary for International Affairs and Community Programs and five State and County Program Coordinators, Agriculture Stabilization and Conservation Service because there is no longer a need for these positions.

**EFFECTIVE DATE:** September 25, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3313(a)(42) and (h)(9) are revoked as set out below:

**§ 213.3313 Department of Agriculture.**

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

(42) [Revoked]

* * * * *

(h) *Agricultural Stabilization and Conservation Service.* * * *

(9) [Revoked]

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79–29561 Filed 9–24–79; 8:45 am]

**BILLING CODE 6325–01–M**

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**5 CFR Part 213**

**Excepted Service; Department of the Army**

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one Secretary (Steno) to the Principal Deputy Assistant Secretary because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** May 31, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Leon Kniaz, Department of the Army, 697–2691.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3307(d)(1) is added as set out below:

**§ 213.3307 Department of the Army.**

* * * * *

(d) *Office of the Principal Deputy Assistant Secretary of the Army (Installations, Logistics and Financial Management).*

(1) One Secretary (Steno) to the Principal Deputy Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 79–29545 Filed 9–24–79; 8:45 am]

**BILLING CODE 6325–01–M**

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**5 CFR Part 213**

**Excepted Service; Department of the Army**

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one Deputy for Human Systems and Resources, Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs) at the Department of the Army because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** April 11, 1979.

**FOR FURTHER INFORMATION:**

On position authority contact: William Bohling, Office of Personnel Management, 202–632–4533.
On position content contact: Leon Kniaz, Department of the Army, 697–2691.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3307(c)(2) is added as set out below:

**§ 213.3307 Department of the Army.**

* * * * *

(c) *Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs).* * * *

(2) One Deputy for Human Systems and Resources.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 79–29546 Filed 9–24–79; 8:45 am]

**BILLING CODE 6325–01–M**

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**5 CFR Part 213**

**Excepted Service; Department of Commerce**

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The following three positions are excepted from the competive service under Schedule C because all are confidential in nature: one position of Confidential Assistant to the Director of Recruiting for the Decennial Census; one Special Assistant (State/Local Coordinator); and one Special Assistant (National Coordinator). Appointments may be made to these positions without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** Special Assistants—August 6, 1979; Confidential Assistant—August 10, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Bea Nelson, Department of Commerce, 377–3453.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3314(v)(3) is added as set out below:

**§ 213.3314 Department of Commerce.**

* * * * *

(v) *Bureau of the Census.* * * *.

(3) One Confidential Assistant to the Director of Recruiting for the Decennial Census, one Special Assistant (State/Local Coordinator) and one Special Assistant (National Coordinator).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 79-29553 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

## 5 CFR Part 213

### Excepted Service; Department of Commerce

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one Special Assistant to the Assistant Secretary for Economic Development because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** June 25, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Bea Nelson, Department of Commerce, 337–5562.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3314(q)(11) is amended as set out below:

**§ 213.3314 Department of Commerce.**

* * * * *

(q) *Office of the Assistant Secretary for Economic Development.* * * *

(11) Two Special Assistants to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29554 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

## 5 CFR Part 213

### Excepted Service; Department of Commerce

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment changes the title of a position from Confidential Assistant to the Deputy Assistant Secretary for International Commerce to Confidential Assistant to the Deputy Assistant Secretary for Export Development to reflect a change in the superior's title.

**EFFECTIVE DATE:** May 8, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 532–4533.

On position content: Judy Hilton, Department of Commerce, 377–3453.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3314(m)(18) is amended as set out below:

**§ 213.3314 Department of Commerce.**

* * * * *

(m) *Office of the Assistant Secretary for Industry and Trade.* * * *

(18) One Confidential Assistant to the Deputy Assistant Secretary for Export Development.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29555 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

## 5 CFR Part 213

### Excepted Service; Department of Commerce

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one Special Assistant to the Secretary for Regional Development and one Private Secretary to the Director of Census because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

**EFFECTIVE DATES:** Special Assistant—June 7, 1979; Private Secretary—June 19, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Bea Nelson, Department of Commerce, 377–3453.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3314(a)(1) is amended and (v)(2) is added as set out below:

**§ 213.3314 Department of Commerce.**

(a) *Office of the Secretary.* (1) Six Confidential Assistants to the Secretary and one Special Assistant to the Secretary for Regional Development.

* * * * *

(v) *Bureau of the Census.* * * *

(2) One Private Secretary to the Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29556 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

## 5 CFR Part 213

### Excepted Service; Department of Commerce

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** One position of Director, Office of Minority Enterprise Program Development, is excepted from the competitive service under Schedule C because it has significant policy-determining aspects.

**EFFECTIVE DATE:** April 6, 1979.

**FOR FURTHER INFORMATION CONTACT:**

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3314(a)(3) is amended as set out below:

**§ 213.3314 Department of Commerce.**

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

(3) One Confidential Assistant, one Special Assistant, one Director, Office of Minority Enterprise Program Development, and two Private Secretaries to the Under Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

[FR Doc. 79-29557 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

## 5 CFR Part 213

### Excepted Service; Department of Commerce

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one position of Confidential Assistant to the Special Assistant for Minority Business Enterprise and one Special Program Advisor to the Administrator of the National Oceanic and Atmospheric Administration because they are confidential in nature. Appointments may be made to these positions without the necessity for examination by the Office of Personnel Management.

**EFFECTIVE DATE:** Special Assistant—May 10, 1979; Special Program Advisor—May 21, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 202–632–4533.

On position content: Judy Hilton, Department of Commerce, 377–3453.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3314(a)(4) is added and (r)(1) is amended as set out below:

**§ 213.3314 Department of Commerce.**

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

(4) One Confidential Assistant to the Special Assistant for Minority Business Enterprise.

* * * * *

(r) *National Oceanic and Atmospheric Administration.*

(1) One Private Secretary, one Executive Assistant, two Special Assistants and one Special Program Advisor to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29558 Filed 9-24-79; 8:45 am]

**BILLING CODE 6325-01-M**

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**5 CFR Part 213**

**Excepted Service; Department of Defense**

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment to Schedule C changes the title of a position in the Department of Defense from Private Secretary to the Defense Advisor to USNATO in Brussels, Belgium to Secretary (Steno) to the Defense Advisor to USNATO in Brussels, Belgium to more appropriately reflect the duties of the position.

**EFFECTIVE DATE:** June 14, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Michael Sekol, Department of Defense, 697–1703.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3306(a)(6) is amended as set out below:

**§ 213.3306 Department of Defense.**

(a) *Office of the Secretary.*

(6) One Secretary (Steno) to the Defense Advisor to USNATO in Brussels, Belgium.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 79-29550 Filed 9-24-79; 8:45 am]

**BILLING CODE 6325-01-M**

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**5 CFR Part 213**

**Excepted Service; Department of Defense**

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C three positions; one Assistant for Intergovernmental Relations, and one Staff Assistant to the Deputy for Intergovernmental Relations, Office of the Council on Wage and Price Stability and one Special Assistant for Mutual and Balanced Force Reductions Policy to the Deputy Assistant Secretary of Defense (Policy Plans and NSC Affairs) because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** Assistant—April 11, 1979; Special Assistant—April 12, 1979; Staff Assistant—April 20, 1979.

**FOR FURTHER INFORMATION:**

On position authority contact: William Bohling, Office of Personnel Management, 202–632–4533.

On position content contact: Michael Sekol, Department of Defense, 695–0511.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3306(a)(98) is amended and (c)(4) is added as set out below:

**§ 213.3306 Department of Defense.**

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

(98) Five Special Assistants to the Deputy Assistant Secretary (Policy Plans and NSC Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.

* * * * *

(c) *Interdepartmental Programs.*

(4) One Assistant and one Staff Assistant to the Deputy for Intergovernmental Relations in the Office of the Council on Wage and Price Stability.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29536 Filed 9-24-79; 8:45 am]

**BILLING CODE 6325-01-M**

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**5 CFR Part 213**

**Excepted Service; Department of Defense**

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one position of Special Assistant for African Affairs to the Deputy Assistant Secretary of Defense (Near East, African, and South Asian Affairs) because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** July 31, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Mike Sekol, Department of Defense, 697–8373.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3306(a)(7) is added as set out below:

**§ 213.3306 Department of Defense.**

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

(7) One Special Assistant for African Affairs to the Deputy Assistant Secretary of Defense (Near East, African and South Asian Affairs).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29542 Filed 9-24-79; 8:45 am]

**BILLING CODE 6325-01-M**

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**5 CFR Part 213**

**Excepted Service; Department of Defense**

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one position of Philippines Base Negotiations Advisor because it is confidential in nature. Appointments may be made without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** August 14, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Mike Sekol, Department of Defense, 697–8373.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3306(a)(4) is added as set out below:

**§ 213.3306 Department of Defense.**

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

(4) One Philippines Base Negotiations Advisor.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 79-29543 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

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## 5 CFR Part 213

## Excepted Service; Department of Defense

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one position of Special Assistant to the Assistant Secretary of Defense (Health Affairs) because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** June 29, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Michael Sekol, Department of Defense, 697–1703.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3306(a)(35) is amended as set out below:

**§ 213.3306 Department of Defense.**

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

(35) One Private Secretary and one Special Assistant to the Assistant Secretary (Health Affairs).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29544 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

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## 5 CFR Part 213

## Excepted Service; Department of Energy

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one temporary position not to exceed January 31, 1980 of Confidential Assistant to a Member of the Federal Energy Regulatory Commission because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** July 13, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Robert Willyerd, Department of Energy, 633–8234.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3331(c)(7) is amended as set out below:

**§ 213.3331 Department of Energy.**

* * * * *

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

(7) Two Confidential Assistants to a Member of the Commission and three Confidential Assistants, one to each remaining Member of the Commission.

(5 U.S.C. 3301, 3302, EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29532 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

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## 5 CFR Part 213

## Excepted Service; Environmental Protection Agency

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts under Schedule C one position of Congressional Liaison Specialist because it is confidential in nature. Appointments may be made without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** August 8, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Anne Maes, Environmental Protection Agency, 755–0270.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3318(c)(1) is added as set out below:

**§ 213.3318 Environmental Protection Agency.**

* * * * *

(c) *Office of Legislation.* * * *

(1) One Congressional Liaison Specialist.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29534 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

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## 5 CFR Part 213

## Excepted Service; Department of Health, Education, and Welfare

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C two temporary positions: One Confidential Secretary to the Secretary and one Secretary (Steno) to the Secretary, both not to exceed November 2, 1979, because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** August 2, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Emma Mapp; Department of Health, Education, and Welfare; 245–2015.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3316(a)(8) is amended and (a)(16) is added as set out below:

**§ 213.3316 Department of Health, Education, and Welfare.**

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

(8) Two Confidential Secretaries to the Secretary.

* * * * *

(16) One Secretary (Steno) to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29530 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

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## 5 CFR Part 213

## Excepted Service; Department of Health, Education, and Welfare

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment (1) excepts from the competitive service under Schedule C one Associate Commissioner, Office of Developmental Services because it is confidential in nature and (2) changes the title of a position from Assistant Commissioner for Comprehensive School Health to Director, Comprehensive School Health to more appropriately reflect the duties of the position. Appointments may be made to these positions without

examination by the Office of Personnel Management.

**EFFECTIVE DATES:** Associate Commissioner—June 8, 1979; Director—June 22, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Rita Reed, Department of Health, Education, and Welfare, 245–2015.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3316(c)(23) is amended and (n)(2) is added as set out below:

**§ 213.3316 Department of Health, Education, and Welfare.**

* * * * *

(c) *Office of Education.* * * *

(23) Director, Comprehensive School Health.

* * * * *

(n) *Office of the Assistant Secretary for Human Development.* * * *

(2) One Associate Commissioner, Office of Developmental Services.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29531 Filed 9-24-79; 8:45 am]

**BILLING CODE 6325-01-M**

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**5 CFR Part 213**

**Excepted Service; Department of Health, Education, and Welfare**

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one position of Confidential Assistant to the Executive Assistant to the Secretary because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** July 13, 1979.

**FOR FURTHER INFORMATION CONTACT:**

5On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Rita Reed, Department of Health, Education, and Welfare, 245–2015.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3316(a)(35) is amended as set out below:

**§ 213.3316 Department of Health, Education, and Welfare.**

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

(35) One Secretary and one Confidential Assistant to the Executive Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29562 Filed 9-24-79; 8:45 am]

**BILLING CODE 6325-01-M**

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**5 CFR Part 213**

**Excepted Service; Department of the Interior**

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one position of Special Assistant to the Director of the Office of Territorial Affairs because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** June 4, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Teresa Winchell, Department of the Interior, 343–7764.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3312(1)(l) is added as set out below:

**§ 213.3312 Department of Interior.**

* * * * *

(1) *Office of the Director of Territorial Affairs.* * * *

(l) One Special Assistant to the Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 79-29547 Filed 9-24-79; 8:45 am]

**BILLING CODE 6325-01-M**

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**5 CFR Part 213**

**Excepted Service; Department of Interior**

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one position of Special Assistant to the Assistant Secretary for Energy and Minerals because it is confidential in nature. Appointments may be made to the position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** May 8, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Teddi Winchell, Department of Interior, 343–7764.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3312(a)(37) is amended as set out below:

**§ 213.3312 Department of the Interior.**

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

(37) Two Special Assistants to the Assistant Secretary for Energy and Minerals.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29548 Filed 9-24-79; 8:45 am]

**BILLING CODE 6325-01-M**

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**5 CFR Part 213**

**Excepted Service; Interstate Commerce Commission**

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C two Confidential Assistants in the Office of the Commissioners because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** August 7, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Mary Pricci, Interstate Commerce Commission, 275–7288.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3322(a) is amended as set out below:

**§ 213.3322 Interstate Commerce Commission.**

(a) One Condifedential Assistant to each of ten Commissioners.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29533 Filed 9-24-79; 8:45 am]

**BILLING CODE 6325-01-M**

5 CFR Part 213

## Excepted Service; Department of Labor

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one position of Special Assistant to the Secretary because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** July 10, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Joyce Goins, Department of Labor, 523–6555.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3315(a)(1) is amended as set out below:

**§ 213.3315 Department of Labor.**

(a) *Office of the Secretary.*

(1) One Private Secretary, one Secretary, Four Special Assistants and one Confidential Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79–29551 Filed 9–24–79; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

## Excepted Service; Department of Labor

**AGENCY:** Office of Personnel Management.

**ACTION:** Final Rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one Special Assistant to the Deputy Under Secretary for International Affairs at the Department of Labor because it is confidential in nature. Appointments may be made to the position without the necessity for examination by the Office of Personnel Management.

**EFFECTIVE DATE:** May 10, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 202–632–4533.

On position content: Joyce Goins, Department of Labor, 523–6555.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3315(a)(16) is amended as set out below:

**§ 213.3315 Department of Labor.**

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

(16) One Staff Assistant, one Executive Assistant and one Special Assistant to the Deputy Under Secretary for International Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79–29552 Filed 9–24–79; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

## Excepted Service; Department of State

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one Member of the Policy Planning Staff at the Department of State because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** May 22, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On postion authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Frances A. Jones, Department of State, 632–5350.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3304(a)(29) is amended as set out below:

**§ 213.3304 Department of State.**

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

(29) Six Members of the Policy Planning Staff.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79–29539 Filed 9–24–79; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

## Excepted Service; Department of State

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one Secretary (Steno) to the Senior Advisor to the Secretary because it is confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** June 26, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 202–632–4533.

On position content: Jack E. Melton, Department of State, 632–5350.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3304(a)(36) is amended as set out below:

**§ 213.3304 Department of State.**

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

(36) One Staff Assistant and one Secretary (Steno) to the Senior Advisor to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 79–29535 Filed 9–24–79; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

## Excepted Service; Department of State

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one position of Secretary (Steno) to the Legal Advisor because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** July 12, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Frances Jones, Department of State, 632–5350.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3304(l)(1) is added as set out below:

**§ 213.3304 Department of State.**

* * * * *

(l) *Office of the Legal Adviser.*

(1) One Secretary (Steno) to the Legal Adviser.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79–29537 Filed 9–24–79; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

## Excepted Service; Department of State

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C a position at the Department of State one position of Special Assistant for Panama Treaty Affairs because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** April 23, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 202–632–4533.

On position content: R. Massey, Department of State, 632–5350.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3304(aa)(2) is added as set out below:

**§ 213.3304 Department of State.**

* * * * *

(aa) *Bureau of Inter-American Affairs.*

* * *

(2) One Special Assistant for Panama Treaty Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79–29538 Filed 9–24–79; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

## Excepted Service; Department of the Treasury

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one position of Special Assistant to the Assistant Secretary (Legislative Affairs) because the position is confidential in nature. An appointment may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** May 22, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Charlene Robinson, Department of the Treasury, 566–5953.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3305(a)(51) is amended as set out below:

**§ 213.3305 Department of the Treasury.**

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

(51) Four Special Assistants to the Assistant Secretary (Legislative Affairs).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., 218)

[FR Doc. 79–28540 Filed 9–24–79; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

## Excepted Service; Department of the Treasury

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts under Schedule C a position at the Department of the Treasury one position of Assistant to the Director (Congressional Affairs) at the Bureau of Alcohol, Tobacco and Firearms because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** May 17, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: James J. Panagis, Department of the Treasury, 566–7146.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3305(d)(1) is added as set out below:

**§ 213.3305 Department of the Treasury.**

* * * * *

(d) Bureau of Alcohol, Tobacco and Firearms.

(1) One Assistant to the Director (Congressional Affairs).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79–29541 Filed 9–24–79; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

## Excepted Service; Environmental Protection Agency

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one position of Special Assistant to the Inspector General because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** August 8, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Anne Maes, Environmental Protection Agency, 755–0270.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3318(b)(1) if added as set out below:

**§ 213.3318 Environmental Protection Agency.**

* * * * *

(b) *Office of the Inspector General.* (1) One Special Assistant to the Inspector General.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79–29574 Filed 9–24–79; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 213

## Excepted Service; Department of Health, Education, and Welfare

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one Executive Assistant to the Administrator for Primary Health Care, Health Services Administration and one Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** Executive Assistant—June 6, 1979; Special Assistant—June 8, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Rita Reed, Department of Health, Education and Welfare, 245–2015.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3316(a)(14) and (h)(1) are added as set out below:

**§ 213.3316 Department of Health, Education and Welfare.**

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

(14) One Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs.

* * * * *

(h) *Office of the Assistant Secretary for Health.* * * *

(1) One Executive Assistant to the Administrator for Primary Health Care, Health Services Administration.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29564 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

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## 5 CFR Part 213

## Excepted Service; Department of Health, Education, and Welfare

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts under Schedule C one Private Secretary to the Secretary because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** August 3, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Emma Mapp, Department of Health, Education, and Welfare, 245–2015.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3316(a)(15) is amended as set out below:

**§ 213.3316 Department of Health, Education, and Welfare.**

(a) *Office of the Secretary.*

* * * * *

(15) One Private Secretary to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29563 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

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## 5 CFR Part 213

## Excepted Service; Department of Health, Education, and Welfare

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C two temporary positions because they are confidential in nature: One Confidential Assistant to the Assistant Secretary for Legislation and one Assistant to the Secretary for Special Programs both not to exceed December 4, 1979. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** September 4, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Emma Mapp, Department of Health, Education and Welfare, 245–2015.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3316(a)(11) and (f)(12) are amended as set out below:

**§ 213.3316 Department of Health, Education, and Welfare.**

(a) *Office of the Secretary.*

(11) Four Special Assistants to the Secretary for Special Programs.

* * * * *

(f) *Office of the Assistant Secretary for Legislation.* * * *

(12) Two Confidential Assistants to the Assistant Secretary.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29565 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

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## 5 CFR Part 213

## Excepted Service; Department of Health, Education, and Welfare

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one Executive Assistant to the Deputy Commissioner, Bureau of Occupational and Adult Education, one Confidential Assistant to the Deputy Commissioner of the Bureau of School Improvement and one Confidential Assistant to the Executive Deputy Commissioner for Resources and Operations because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** July 20, 1979; July 23, 1979; July 25, 1979, respectively.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Emma Mapp, Department of Health, Education, and Welfare, 245–2015.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3316(c) (4) (5) (6) are added as set out below:

**§ 213.3316 Department of Health, Education, and Welfare.**

* * * * *

(c) *Office of Education.* * * *

(4) One Executive Assistant to the Deputy Commissioner, Bureau of Occupational and Adult Education.

(5) One Confidential Assistant to the Deputy Commissioner, Bureau of School Improvement.

(6) One Confidential Assistant to the Executive Deputy Commissioner for Resources and Operations.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29573 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

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## 5 CFR Part 213

## Excepted Service; Department of Health, Education, and Welfare

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one position of Confidential Assistant to the Deputy Assistant Secretary for Education (Policy Development) because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** August 2, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Emma Mapp, Department of Health, Education, and Welfare, 245–2015.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3316(c)(7) is added as set out below:

**§ 213.3316 Department of Health, Education, and Welfare.**

* * * * *

(c) *Office of education.* * * *

(7) One Confidential Assistant to the Deputy Assistant Secretary for Education (Policy Development).

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29572 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

## 5 CFR Part 213

## Excepted Service; Department of Health, Education and Welfare

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one position of Executive Assistant to the Commissioner of Education and one position of Assistant Commissioner for Education Community Liaison in the Office of Education because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** May 1, 1979.

**FOR FURTHER INFORMATION:**

On position authority contact: William Bohling, Office of Personnel Management, 202–632–4533.

On position content contact: Lois Winslow, Department of Energy, 633–8900.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3316(c)(14) is amended and (c)(8) is added as set out below:

**§ 213.3316 Department of Health, Education and Welfare.**

* * * * *

(c) *Office of Education.* * * *

(14) Three Special Assistants and one Executive Assistant to the Commissioner of Education. * * *

(8) One Assistant Commissioner for Education Community Liaison.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29571 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

## 5 CFR Part 213

## Excepted Service; Department of Health, Education, and Welfare

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one position of Special Assistant to the Assistant Secretary for Planning and Evaluation because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** July 17, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Emma Mapp, Department of Health, Education, and Welfare, 245–2015.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3316(k)(1) is added as set out below:

**§ 213.3316 Department of Health, Education, and Welfare.**

* * * * *

(k) *Office of the Assistant Secretary for Planning and Evaluation.* * * *

(1) One Special Assistant to the Assistant Secretary.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29570 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

## 5 CFR Part 213

## Excepted Service; Department of Health, Education, and Welfare

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one Special Assistant of External Affairs because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** August 14, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.

On position content: Emma Mapp; Department of Health, Education, and Welfare; 245–2015.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3316(1)(2) is added as set out below:

**§ 213.3316 Department of Health, Education, and Welfare.**

* * * * *

(1) *Social Security Administration.* * * *

(2) One Special Assistant for External Affairs.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29569 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

## 5 CFR Part 213

## Excepted Service; Department of Health, Education, and Welfare

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one position of Director, Office of Refugee Affairs, because it is confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** June 29, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 202–632–4533.

On position content: Emma Mapp, Department of Health, Education, and Welfare, 245–2015.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3316(1)(3) is added as set out below:

**§ 213.3316 Department of Health, Education and Welfare.**

* * * * *

(1) *Social Security Administration.* * * *

(3) One Director, Office of Refugee Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29568 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

## 5 CFR Part 213

## Excepted Service; Department of Health, Education, and Welfare

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C one Director, Office of Domestic Violence, because it is confidential in nature. Appointments

may be made without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** August 7, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Emma Mapp, Department of Health, Education, and Welfare, 245–2015.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3316(n)(3) is added as set out below:

**§ 213.3316 Department of Health, Education, and Welfare.**

* * * * *

(n) *Office of the Assistant Secretary for Human Development.* * * *

(3) Director, Office of Domestic Violence.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29567 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

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## 5 CFR Part 213

## Excepted Service; Department of Health, Education, and Welfare

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment changes the title of a position at the Department of Health, Education, and Welfare from Confidential Secretary to the Deputy Assistant Secretary for Education to Confidential Assistant to the Deputy Assistant Secretary for Education to more appropriately reflect the duties of the positon.

**EFFECTIVE DATE:** May 15, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On positon authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Rita Reed, Department of Health, Education, and Welfare, 245–2015.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3316(r)(7) is amended as set out below:

**§ 213.3316 Department of Health, Education, and Welfare.**

* * * * *

(r) *Office of the Assistant Secretary for Education.* * * *

(7) One Confidential Assistant to the Deputy Assistant Secretary for Education.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29576 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

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## 5 CFR Part 213

## Excepted Service; Department of Health, Education, and Welfare

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment changes the title of a position at the Department of Health, Education, and Welfare from Confidential Secretary to the Director, Institute of Museum Services to Confidential Assistant to the Director, Institute of Museum Services to more appropriately reflect the duties of the position.

**EFFECTIVE DATE:** May 22, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Rita Reed, Department of Health, Education, and Welfare, 245–2015.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3316(r)(11) is amended as set out below:

**§ 213.3316 Department of Health, Education, and Welfare.**

* * * * *

(r) *Office of the Assistant Secretary for Education.* * * *

(11) One Confidential Assistant to the Director, Institute of Museum Services.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-29575 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

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## 5 CFR Part 213

## Excepted Service; Department of Labor

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** This amendment excepts from the competitive service under Schedule C three positions: Two Special Assistants and one Private Secretary all reporting to the Inspector General of Labor because they are confidential in nature. Appointments may be made without examination by the Office of Personnel Management.

**EFFECTIVE DATE:** April 23, 1979.

**FOR FURTHER INFORMATION CONTACT:**

On position authority: William Bohling, Office of Personnel Management, 202–632–4533.
On position content: Joyce Goins, Department of Labor, 523–6563.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, 5 CFR 213.3315(c)(1) is added as set out below:

**§ 213.3315 Department of Labor.**

* * * * *

(c) *Office of the Inspector General.*

(1) Two Special Assistants and one Private Secretary to the Inspector General.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 79-29566 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

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## 5 CFR Part 737

## Post Employment Conflict of Interest

**AGENCY:** Office of Personnel Management.

**ACTION:** Interim regulations made immediately effective with comments invited for consideration in final rulemaking.

**SUMMARY:** The Office of Personnel Management is issuing an interim regulation under the Ethics in Government Act of 1978 concerning the designation of certain positions subject to the post employment conflict of interest regulations applicable to "senior employees".

**DATE:** Effective date: September 25, 1979. Comment date: Written comments will be considered if received no later than October 30, 1979.

**ADDRESS:** Send written comments to: Office of Government Ethics, 1900 E Street NW., Washington, D.C. 20415.

**FOR FURTHER INFORMATION CONTACT:** Gary Davis at (202) 632–7642.

**SUPPLEMENTARY INFORMATION:**

Subsection 207(d)(1)(C) of title 18 U.S.C. contained in Title V of the Ethics in Government Act of 1978 ("the Act"), (Pub. L. 95–521), gives the Director of the Office of Government Ethics ("OGE") authority to designate certain employee positions for purposes of the restrictions of 18 U.S.C. subsections 207(b)(ii) and 207(c). Regulations implementing this authority published April 3, 1979 (44 FR

19974) designated as "senior employees," subject to such restrictions, all employees in a position in any pay system for which the basic rate of pay is equal to or greater than that for GS–17 of the General Schedule as prescribed by 5 U.S.C. 5332 or positions which are established within the Senior Executive Service (SES) pursuant to the Civil Service Reform Act of 1978, subject to exemptions to be made by OGE. Recently passed Public Law 96–28 amended subsection 207(d) to grant OGE the same discretionary designation authority in regard to active duty commissioned officers of the uniformed services serving in pay grades 07 and 08 (described in 37 U.S.C. 201.) In anticipation of the passage of such an amendment, OGE issued a memorandum dated April 16, 1979, indicating that the same discretionary designation procedure, prescribed for GS–17 and above and SES positions, as noted above, would be applied to such officers.

Section 737.25 of the interim regulations sets forth the standards and procedures to be applied in determining which positions shall be designated. OGE also issued a memorandum dated April 26, 1979, giving additional information and guidance on this subject.

The Director, OGE, in consultation with each department or agency concerned, has determined that the positions set forth below qualify for designation as "senior employee" positions. While the interim regulations contemplated the publication of only those positions *exempted* from designation, the Director has determined that the publication of designated positions is preferable, although the underlying procedure remains unchanged. The designated positions set forth in this publication will be listed in a new section of the final regulations on Post Employment Conflict of Interest (5 CFR § 737.33).

The positions listed here constitute all the "senior employee" positions designated under the provisions of subsection 207(d)(1)(C) of title 18 U.S.C. for the departments and agencies listed. In accordance with 5 CFR 737.25(d), subsequent designations of positions within the departments or agencies listed shall not be effective until the last day of the fifth full calendar month after the first publication of a notice by the Director, OGE, of intention to so designate. Such fair notice shall not apply to subsequent designations made under the rule concerning position shifting set forth in 5 CFR 737.25(i).

Moreover, the five month delay will not be applicable to the initial designation of positions in departments and agencies not covered by this installment of designations. Not all departments and agencies were able to meet the reply date prescribed by 5 CFR 737.25; therefore, not all "senior employee" designations which will be made by OGE are listed below. The results of additional exemptions for personnel of departments and agencies not listed herein will be published subsequently.

In several cases, a position in one agency has been designated while a position of similar title in another has not. OGE has, in the exercise of its discretion, accorded some deference to the decision of a department or agency to designate a position where that decision was in favor of designation; above minimum OGE standards. In conducting the review necessary for these designations, it became apparent that, because of the subject matter of a department's or agency's business, the gravity of the "revolving door" problems varied significantly from agency to agency. Moreover, positions which were ostensibly similarly titled and described nevertheless had different roles from agency to agency. Also, OGE believes it desirable that the balance between post-employment restrictions and impact on recruiting and retention be adjudged on an agency level, as long as minimum standards are met.

Positions automatically designated by §§ 207(d)(1)(A) and (B) are not included in this publication.

Because of the foregoing facts, and in order that all Government employees whose positions are potentially subject to designation as "senior employee" positions for the purposes of subsection 207(b)(ii) and subsection 207(c) of the Act have the benefit of review by OGE prior to designation of their positions, the effective date of all discretionary designations, as set forth in 5 CFR 737.25(b)(1), shall be December 15, 1979 rather than October 1, 1979, and 5 CFR 737.25(b)(1) is hereby amended.

This is an interim, not proposed regulation. It is interpretive in nature, exempt from 5 U.S.C. 553. Because of the fact that on December 15, 1979, the incumbents of additional positions will become subject to the restrictions of 18 U.S.C. subsections 207(b)(ii) and (c), there is need, in fairness, to establish rules upon which affected employees may rely. The Director of the Office of Personnel Management, Alan K. Campbell, acting pursuant to 5 U.S.C. section 553(b)(3)(B), has found good cause for dispensing with the notice of proposed rulemaking. After OGE evaluates the comments received, OPM will promulgate final rules.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance System Manager.*

Accordingly, the Office of Personnel Management is amending part 737 of Title 5 of the Code of Federal Regulations, as follows:

## PART 737—REGULATIONS CONCERNING POST EMPLOYMENT CONFLICT OF INTEREST

1. Appendix A: Deleted. Appendix B: Deleted

**§ 737.25 [Amended]**

2. The effective designation date of "senior employee" positions set forth in § 737.25(b)(1) shall read December 15, 1979 rather than October 1, 1979.

3. Section 737.33 "Senior Employee" Designation is added as follows:

**§ 737.33 "Senior employee" designation.**

(a) In accordance with § 737.25(b)(1), the following employee positions are designated as "senior employee" positions for purposes of subsections 207(b)(ii) and (c) of title 18 U.S.C., as amended.

### AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF MANAGEMENT AND BUDGET)

*Positions: Grade and Title*

GS–18 General Counsel
GS–18 Project Director, Federal Statistical Reorganization
GS–18 Deputy Associate Director, Information Systems Policy
GS–18 Deputy Associate Director, Intergovernmental Affairs
GS–18 Domestic Reorganization Coordinator
GS–18 Deputy Associate Director for Economic and Regional Development Organization
GS–18 Deputy Associate Director for Natural Resources, Energy and Environment Reorganization
GS–18 Deputy Associate Director for General Government Reorganization
GS–18 Deputy Associate Director for Budget Review
GS–18 Deputy Associate Director for International Affairs
GS–18 Deputy Associate Director for National Security
GS–18 Deputy Associate Director for Management, National Security and International Affairs
GS–18 Deputy Associate Director for Health and Income Maintenance
GS–18 Deputy Associate Director for Transportation, Commerce and Housing
GS–18 Deputy Associate Director for Natural Resources
GS–18 Deputy Associate Director for Energy and Science
GS–17 Assistant to the Director for Public Affairs
GS–17 Assistant to the Director for Administration

GS–17 Assistant Director for Legislative Affairs
GS–17 Deputy Assistant Director for Legislative Reference
GS–17 Assistant for Planning and Policy Coordination
GS–17 Deputy Assistant Director for Revaluation
GS–17 Deputy Associate Director for Regulatory Policy and Reports Management
GS–17 Chief, Financial Management Branch, Budget Review
GS–17 Chief, Fiscal Analysis Branch, Budget Review
GS–17 Deputy Chief, International Affairs Division
GS–17 Deputy Chief, National Security Division
GS–17 Associate Deputy Chief, National Security Division
GS–17 Deputy Associate Director for Labor, Veterans and Education
GS–17 Deputy Division Chief (Labor), Labor, Veterans and Education
GS–17 Deputy Associate Director for Management, Human Resources, Veterans and Labor
GS–17 Deputy Division Chief, Transportation, Commerce and Housing
GS–17 Deputy Associate Director for Justice, Treasury and General Management
GS–17 Deputy Division Chief, Natural Resources Division
GS–17 Deputy Division Chief, Energy and Science
GS–17 Deputy Associate Director for Management, Natural Resources, Energy and Science
SES Deputy General Counsel

**OFFICE OF FEDERAL PROCUREMENT POLICY**

GS–18 Associate Administrator for Systems and Technology
GS–18 Associate Administrator for Regulations and Procedure
GS–17 Associate Administrator for Acquisition Law
GS–17 Assistant Administrator for Logistics
GS–17 Assistant Administrator for Regulations
SES Assistant Administrator for Commercial Products
SES Assistant Administrator for Labor Affairs and Personnel

* * * * *

**AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (COUNCIL ON ECONOMIC ADVISERS)**

*Positions:* No section 207(d)(1)(C) designations

* * * * *

**AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (DOMESTIC POLICY STAFF)**

*Positions:*
AD Associate Directors(11)
AD Counselor to the President on Aging
AD Special Assistant to the President for Consumer Affairs
AD Expert/Drug Policy

* * * * *

**AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS)**

*Positions:*
GS–18 General Counsel
GS–17 Assistant Special Trade Representatives(4)
GS–18 Assistant Special Trade Representatives(2)

* * * * *

**AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (COUNCIL ON ENVIRONMENTAL QUALITY)**

*Positions:*
GS–18 General Counsel
GS–18 Executive Director

* * * * *

**AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (COUNCIL ON WAGE AND PRICE STABILITY)**

*Positions:*
GS–18 Special Assistant to the Chairperson for Intergovernmental Affairs
GS–18 Deputy Director
GS–18 General Counsel
GS–17 Assistant Director for Operations
SES Assistant Director, Office of Government Programs and Regulations
SES Assistant Director, Office of Price Monitoring

* * * * *

**AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF SCIENCE AND TECHNOLOGY POLICY)**

*Positions:*
SES Associate Director for National Security, International and Space Affairs
SES Associate Director for Human Resources and Social and Economic Services
SES Associate Director for Natural Resources and Commercial Services
SES Senior Policy Analyst

* * * * *

**AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF ADMINISTRATION)**

*Positions:* No section 207(d)(1)(C) designations

* * * * *

**AGENCY: EXECUTIVE OFFICE OF THE PRESIDENT (OFFICE OF THE VICE PRESIDENT OF THE UNITED STATES)**

*Positions:*
SES Chief of Staff
SES Counsel to the Vice President and Deputy Chief of Staff
SES Executive Assistant to the Vice President
SES Assistant to the Vice President for National Security Affairs
SES Assistant to the Vice President and Press Secretary

* * * * *

**AGENCY: DEPARTMENT OF AGRICULTURE**

*Positions:*

**OFFICE OF THE SECRETARY**

GS–18 Executive Assistant to the Secretary

**OFFICE OF THE INSPECTOR GENERAL**

GS–18 Inspector General
GS–17 Director of Investigation
GS–17 Assistant Inspector General for Investigations
GS–17 Director of Audit
GS–17 Assistant Inspector General for Auditing

**OFFICE OF GOVERNMENTAL AND PUBLIC AFFAIRS**

GS–17 Associate Director

**OFFICE OF THE GENERAL COUNSEL**

GS–18 Deputy General Counsel

**OFFICE OF ADMINISTRATIVE LAW JUDGES**

*Positions:* No section 207(d)(1)(C) designations

**OFFICE OF PERSONNEL**

GS–18 Director

**OFFICE OF EQUAL OPPORTUNITY**

*Positions:* No section 207(d)(1)(C) designations

**OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION**

SES Deputy Assistant Secretary for Administration

**OFFICE OF OPERATIONS AND FINANCE**

GS–18 Director
GS–17 Director, National Finance Center

**OFFICE OF THE DIRECTOR, ECONOMICS POLICY ANALYSIS AND BUDGET**

SES Deputy Director for Economics, Policy Analysis, and Budget

**OFFICE OF BUDGET, PLANNING AND EVALUATION**

SES Director
SES Deputy Director for Management and Budget

**WORLD FOOD AND AGRICULTURAL OUTLOOK AND SITUATION BOARD**

SES Chairman

**ECONOMICS, STATISTICS, AND COOPERATIVES SERVICE**

GS–18 Administrator
GS–18 Deputy Administrator for Statistics
GS–17 Deputy Administrator for Cooperatives
GS–17 Deputy Administrator for Economics

**OFFICE OF THE ASSISTANT SECRETARY FOR RURAL DEVELOPMENT**

SES Deputy Assistant Secretary for Rural Development

RURAL ELECTRIFICATION ADMINISTRATION

GS–17 Deputy Administrator

FARMERS HOME ADMINISTRATION

GS–18 Associate Administrator
SES Deputy Administrator, Financial and Administrative Operations
GS–17 Deputy Administrator, Rural Development
GS–17 Deputy Administrator, Farm and Family Programs
GS–17 Associate Administrator for Rural Development Policy Management and Coordination

SCIENCE AND EDUCATION ADMINISTRATION

GS–18 Associate Director
GS–17 Administrator, Human Nutrition Center
SES Associate Administrator, Human Nutrition Center
IPA(AD) Head, Competitive Research Grants Office
IPA(AD) Assistant Director, Higher Education
GS–17 Assistant Director for Program Management
SES Chief, International Programs
GS–18 Deputy Director for Extension
GS–17 Associate Deputy Director for Extension
GS–18 Deputy Director, Cooperative Research
GS–17 Associate Administrator, Cooperative Research
GS–17 Deputy Director, Administrative Management
GS–18 Deputy Director for Agricultural Research
GS–17 Associate Deputy Director, Agricultural Research

OFFICE OF THE ASSISTANT SECRETARY FOR CONSERVATION, RESEARCH AND EDUCATION

SES Deputy Assistant Secretary for Conservation, Research and Education

SOIL CONSERVATION SERVICE

GS–18 Associate Administrator
GS–17 Deputy Administrator for Administration
GS–17 Deputy Administrator for Technical Services
GS–18 Deputy Administrator for Programs

FOREST SERVICE

GS–18 Associate Chief
GS–17 Deputy Chief for Administration
GS–18 Deputy Chief for Research
GS–17 Associate Deputy Chiefs for Research(2)
GS–18 Deputy Chief, National Forest Systems
GS–17 Associate Deputy Chiefs, National Forest Systems (2)
GS–18 Deputy Chief, State and Private Forestry
GS–17 Associate Deputy Chief, State and Private Forestry
GS–18 Deputy Chief for Programs and Legislation
GS–17 Associate Deputy Chief for Programs and Legislation

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

GS–17 Deputy Under Secretary for International Affairs and Commodity Programs
GS–18 Special Assistant for International Scientific and Technical Cooperation

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

GS–18 Associate Administrator
GS–18 Deputy Administrator, State and County Operations
GS–17 Deputy Administrator, Management
GS–17 Deputy Administrator, Commodity Operations

FEDERAL CROP INSURANCE CORPORATION

GS–18 Manager
SES Deputy Manager

FOREIGN AGRICULTURAL SERVICE

GS–17 Associate Administrator
GS–17 Assistant Administrator, Commodity Programs

OFFICE OF THE GENERAL SALES MANAGER

GS–17 General Sales Manager

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

SES Deputy Assistant Secretary for Food and Consumer Services

FOOD SAFETY AND QUALITY SERVICE

GS–18 Administrator
SES Associate Administrator
SES Deputy Adminstrator, Commodity Services
GS–17 Deputy Administrator, Meat and Poultry Inspection Field Operations
SES Deputy Administrator, Administrative Management

FOOD AND NUTRITION SERVICE

GS–18 Administrator
GS–17 Associate Administrator

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND TRANSPORTATION SERVICES

SES Deputy Assistant Secretary for Marketing and Transportation Services

AGRICULTURAL MARKETING SERVICE

GS–17 Deputy Administrator, Marketing Program Operations

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

GS–18 Associate Administrator
GS–17 Deputy Administrator, Veterinary Services
GS–17 Deputy Administrator, Plant Protection and Quarantine
GS–17 Deputy Administrator for Management

FEDERAL GRAIN INSPECTION SERVICE

SES Deputy Administrator, Program Operations

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AGENCY: DEPARTMENT OF COMMERCE

*Positions:*

OFFICE OF THE SECRETARY

SES Special Assistants to the Secretary of Commerce (2)
SES Assistant to the Secretary of Commerce
SES Counsellor to the Secretary of Commerce

Office of Regional Affairs and Regional Coordination

SES Director, Office of Regional Affairs
SES Chairperson, Federal Regional Council, Region V

Office of Congressional Affairs

SES Deputy Assistant Secretary of Congressional Affairs

Office of Public Affairs

SES Counsellor to the Secretary and Director, Public Affairs

Office of General Counsel

SES Deputy General Counsel

Office of Assistant Secretary for Policy

SES Deputy Assistant Secretary for Ocean, Resource and Scientific Policy
SES Deputy Assistant Secretary for International Policy Coordination
SES Deputy Assistant Secretary for Domestic Economic Policy and Coordination

Office of Assistant Secretary for Tourism

SES Deputy Assistant Secretary

Office of Minority Business Enterprise

SES Director, Office of Minority Business Enterprise
SES Deputy Director, Office of Minority Business Enterprise
SES Special Assistant for Minority Enterprise
SES Assistant Director for Program Resources

OFFICE OF ASSISTANT SECRETARY FOR MARITIME AFFAIRS

SES Deputy Assistant Secretary

Office of the General Counsel

SES General Counsel
SES Deputy General Counsel

*Policy and Administration*

SES Deputy Assistant Administrator

Maritime Aids

SES Assistant Administrator for Maritime Aids
SES Deputy Assistant Administrator
SES Director, Office of Subsidy Contracts

Operations.

SES Assistant Administrator for Operations
SES Deputy Assistant Administrator
SES Director, Office of Ship Construction
SES Director, Office of Shipbuilding Costs

Commercial Development

SES Assistant Administrator for Commercial Development

SES Deputy Assistant Administrator for Commercial Development

Regional Offices

SES Director, Eastern Region
SES Director, Western Region

*U.S. Merchant Marine Academy*

SES Superintendent

**OFFICE OF ASSISTANT SECRETARY FOR INDUSTRY AND TRADE ADMINISTRATION**

SES Deputy Assistant Secretary

**BUREAU OF INTERNATIONAL ECONOMIC POLICY AND RESEARCH**

GS–17 Deputy Assistant Secretary
SES Deputy Director

*Administrative and Legislative Policy*

SES Deputy Assistant Secretary for

**Bureau of Trade Regulation**

SES Deputy Assistant Secretary for
SES Deputy Director

**Bureau of East-West Trade**

GS–17 Deputy Assistant Secretary and Bureau Director
SES Deputy Bureau Director

**Bureau of Export Development**

SES Deputy Assistant Secretary, National Export Expansion Coordinator & Bureau Director
SES Deputy Director

**INDUSTRY AND TRADE ADMINISTRATION**

*Positions:* No section 207(d)(1)(C) designations

**Bureau of Domestic Business Development**

SES Deputy Assistant Secretary for
SES Deputy Director

**Bureau of Field Operations**

SES Deputy Assistant Secretary

**OFFICE OF ASSISTANT SECRETARY FOR ADMINISTRATION**

SES Deputy Assistant Secretary

**Office of the Controller**

SES Controller

**Office of Budget and Program Evaluation**

SES Director
SES Deputy Director, Budget

**Office of Procurement and Automatic Data Processing Management**

SES Director

**NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION**

SES Deputy Assistant Secretary

**Office of Planning and Policy Coordination**

SES Director
SES Chief Counsel

**Office of International Affairs**

SES Director

**Office of Federal Systems and Spectrum Management**

SES Associate Administrator for

SES Deputy Associate Administrator

**Office of Policy Analysis and Development**

SES Associate Administrator
SES Deputy Associate Administrator

**Office of Telecommunications Applications**

SES Associate Administrator

**Institute for Telecommunications Sciences**

SES Associate Administrator
SES Deputy Associate Administrator

**OFFICE OF THE CHIEF ECONOMIST**

SES Chief Economist
SES Deputy Chief Economist
SES Deputy Assistant Director for Statistical Policy

**Bureau of Economic Analysis**

SES Director
SES Deputy Director

**Bureau of the Census**

SES Deputy Director

*Demographic Fields*

SES Associate Director for

*Electronic Data Processing*

SES Associate Director for

*Statistical Standards and Methodology*

SES Associate Director for

*Field Operations and User Services*

SES Associate Director for

*Economic Fields*

SES Associate Director

**OFFICE OF ASSISTANT SECRETARY FOR SCIENCE AND TECHNOLOGY**

SES Deputy Assistant Secretary

**Office of Environmental Affairs**

SES Deputy Assistant Secretary

**Office of Product Standards**

SES Deputy Assistant Secretary

**National Technical Information Service**

SES Director
SES Deputy Director

**NATIONAL BUREAU OF STANDARDS**

SES Deputy Director
SES Associate Director for International Affairs

**Office of Associate Director for Programs, Budget and Finance**

SES Associate Director

*Institute for Basic Standards*

SES Director
SES Deputy Director

*National Measurement Laboratory*

SES Director
SES Deputy Director for Resources & Operations

*National Engineering Laboratory*

SES Director
SES Deputy Director

*Institute for Computer Sciences and Technology*

SES Director
SES Deputy Director
SES Associate Director for Teleprocessing and Supporting Communications Technology
SES Associate Director for Automatic Data Processing Standards

**OFFICE OF ASSISTANT SECRETARY FOR ECONOMIC DEVELOPMENT**

**(Economic Development Administration)**

SES Deputy Assistant Secretary

**Office of Chief Counsel**

SES Director

**Office of Special Projects**

SES Director

*Economic Development Policy and Planning*

SES Deputy Assistant Secretary

*Economic Development Operations*

SES Deputy Assistant Secretary
SES Director, Local Public Works

**Office of Public Works**

SES Director

**PATENT AND TRADEMARK OFFICE**

GS–18 Deputy Commissioner

**Board of Patent Interferences**

SES Chairman

**Office of Assistant Commissioner for Patents**

GS–18 Assistant Commissioner
SES Deputy Assistant Commissioner

**Office of Assistant Commissioner for Trademarks**

GS–17 Assistant Commissioner

**Office of the Solicitor**

SES Solicitor
SES Deputy Solicitor

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

SES Executive Director, NACOA
GS–17 Special Counsel for Law of the Sea

**Office of the General Counsel**

SES General Counsel
SES Deputy General Counsel

**Office of Programs and Budget**

SES Director

**Office of Policy and Planning**

SES Assistant Administrator for Policy and Planning

*Coastal Zone Management*

SES Assistant Administrator

*National Marine Fisheries Service*

SES Assistant Administrator for Fisheries
SES Deputy Assistant Administrator

*Office of Research and Development*

SES Assistant Administrator for Research and Development

*Environmental Research Laboratories*

SES Director

*Office of Sea Grants*

SES Director

*Oceanic and Atmospheric Services*

SES Assistant Administrator
SES Deputy Assistant Administrator

*National Weather Service*

SES Director
SES Deputy Director

*National Ocean Survey*

07–08 Director
SES Deputy Director

*Environmental Data and Information Service*

SES Director
SES Deputy Director

*National Environmental Satellite Service*

SES Director
SES Deputy Director

**NOAA CORPS**

07–08 Director

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**AGENCY: DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

*Positions:*

**OFFICE OF THE SECRETARY**

SES Executive Assistants to the Secretary (2)
SES Assistant to the Secretary for International Affairs
SES Assistant to the Secretary for Labor Relations

**OFFICE OF THE ASSISTANT SECRETARY FOR HOUSING**

SES Deputy Assistant Secretary, Multifamily Housing Programs
SES Deputy Assistant Secretary, Single-Family Housing and Mortgages Activities
SES Deputy Assistant Secretary, Public Housing and Indian Programs
SES Director, Office of Policy and Program Development

**OFFICE OF THE ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT**

SES Deputy Assistant Secretary for Interprogram and Areawide Concerns
SES Deputy Assistant Secretary for Urban Policy

**OFFICE OF THE ASSISTANT SECRETARY FOR NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION**

SES General Deputy Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection
SES Deputy Assistant Secretary for Neighborhoods and Consumer Affairs
SES Deputy Assistant Secretary for Regulatory Functions/Office of Interstate Land Sales Registration

**OFFICE OF THE ASSISTANT SECRETARY FOR FAIR HOUSING AND EQUAL OPPORTUNITY**

SES Deputy Assistant Secretary for Management and Organization
SES General Deputy Assistant Secretary for Fair Housing and Equal Opportunity

**OFFICE OF THE ASSISTANT SECRETARY FOR POLICY DEVELOPMENT AND RESEARCH**

SES Deputy Assistant Secretary for Research
SES Director, Division of Housing Research
SES Director, Division of Energy, Building Technology and Standards
SES Director, Division of Evaluation
SES Director, Division of Community Conservation Research
SES Deputy Assistant Secretary for Policy Development
SES Director, Division of Government Capacity Building
SES Deputy Assistant Secretary for Economic Affairs
SES Director, Office of Program Planning and Administration

**OFFICE OF THE GENERAL COUNSEL**

*Positions:* No section 207(d)(1)(C) designations

**OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION**

SES Deputy Assistant Secretary for Administration

**OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION AND INTERGOVERNMETNAL RELATIONS**

SES Deputy Assistant Secretary for Legislation and Intergovernmental Relations

**OFFICE OF THE INSPECTOR GENERAL**

*Positions:* No Section 207(d)(1)(C) Designations

**GOVERNMENT NATIONAL MORTGAGE ASSOCIATION**

SES Vice President (Mortgage Finance)
SES Vice President (Mortgage Backed Securities)

**NEW COMMUNITY DEVELOPMENT CORPORATION**

SES Deputy General Manager for New Community Development Corporation

**FEDERAL DISASTER ASSISTANCE ADMINISTRATION**

SES Administrator
SES Deputy Administrator

**FIELD OFFICES**

Region I

SES Regional Administrator
SES Deputy Regional Administrator
SES Director, Boston Area Office

Region II

SES Regional Administrator
SES Deputy Regional Administrator
SES Director, New York Area Office
SES Director, Newark Area Office

Region III

SES Regional Administrator/Chairperson Federal Regional Counsel
SES Deputy Regional Administrator
SES Director, Philadelphia Area Office

Region IV

SES 4650 Regional Administrator
SES 4650 Deputy Regional Administrator
SES 4650 Director, Atlanta Area Office

Region V

SES 4650 Regional Administrator
SES 4650 Deputy Regional Administrator
SES 4650 Director, Detroit Area Office
SES 4650 Director, Chicago Area Office
SES 4650 Director, Columbus Area Office

Region VI

SES 4650 Regional Administrator
SES 4650 Deputy Regional Administrator
SES 4650 Director, Dallas Area Office

Region VII

SES 4650 Regional Administrator
SES 4650 Deputy Regional Administrator

Region VIII

SES 4650 Regional Administrator/ Chairperson Federal Regional Counsel
SES 4650 Deputy Regional Administrator

Region IX

SES 4650 Regional Administrator
SES 4650 Deputy Regional Administrator
SES 4650 Director, San Francisco Area Office
SES 4650 Director, Los Angeles Area Office

Region X

SES 4650 Regional Administrator
SES 4650 Deputy Regional Administrator

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**AGENCY: DEPARTMENT OF STATE**

*Positions:*

FA01 Chief of Mission, Bangkok
FO01 Deputy Assistant Secretary, A/SY
FA01 Chief of Mission, Bucharest
FR01 Deputy Representative, S/AR
FANC Chief of Mission, Canberra
FO01 Assistant Chief of Mission, Berlin
FO01 Principal Officer, Sao Paulo
FA01 Chief of Mission, Bogota
FR01 Deputy Assistant Secretary, H
FR01 Deputy Assistant Secretary, EB/TRA
FO01 United States Representative, USM FAO Rome of Mission Rangdon
FO01 Deputy Chief of Mission, Guatemala
FR01 Deputy Director for Planning, S/P
FA01 Chief of Mission, Khartoum
FO01 Principal Officer, Montreal
FO01 Principal Officer, Guayaquil
RU01 Deputy Assistant Secretary, PA
FO01 Deputy Chief of Mission, New Delhi
FA01 Chief of Mission, Lisbon
FA01 Chief of Mission, La Paz
FA01 Chief of Mission, Berlin
FO01 Deputy Chief of Mission, Vienna
FA01 Chief of Mission, Tunis
FA01 Chief of Mission, Ouagadougou
FA01 Chief of Mission, Ndjamena
FANC Chief of Mission, London
FO01 Inspector General, S/IG
FO01 Deputy Chief of Mission, Warsaw
RU01 Deputy Assistant Secretary, OES
FO01 Principal Officer, Leningrad
FA01 Chief of Mission, Georgetown
FO01 Deputy Assistant Secretary, ARA
FA01 Chief of Mission, Bamako
FO01 Deputy Assistant Secretary, EB/ORF
FA01 Ambassador at Large, S/SLG

FANC Chief of Mission, Buen. Aires
FANC Chief of Mission, Brussels
FA01 Chief of Mission, Add. Ababa
FO01 Deputy Chief of Mission, Buen. Aires
FA01 Chief of Mission, Valletta
FA01 Chief of Mission, Dakar
FO01 Principal Officer, Naples
FA01 Chief of Mission, Suva
FO01 Director of Management Operations, M/MO
FO01 Deputy Chief of Mission, Islamabad
FA01 Chief of Mission, Bujumbura
FO01 Principal Officer, Bombay
FO01 Deputy Assistant Secretary, NEA
FA01 Chief of Mission, Conakry
FO01 Deputy Chief of Mission, Caracas
FO01 Deputy Chief of Mission, Bern
FA01 Chief of Mission, Kinshasa
FO01 Principal Officer, Sydney
FA01 Chief of Mission, Beirut
FO01 United States Representative, Vienna MBFR-
FA01 Chief of Mission, Maputo
FA01 Chief of Mission, San Salv
FO01 Principal Officer, Rio De Jan
FA01 Chief of Mission, Abu Dhabi
FO01 Principal Officer, Toronto
FO01 Deputy Chief of Mission, Panama
FO01 Deputy Chief of Mission, Ankara
FO01 Duputy Assistant Secretary, NEA
FO01 Deputy Chief of Mission, The Hague
RU01 Deputy Assistant Secretary, A/OPR
RU01 Deputy Assistant Secretary, M/MED
FO01 Deputy Chief of Mission, Tripoli
FO01 Director, Asian Develop, Asian DEV BK
FA01 Chief of Mission, Pretoria
FA01 Chief of Mission, Reykjavik
GS-17 Deputy Legal Advisor, L
FO01 Principal Officer, Milan
FA01 Chief of Mission, Port O Spain
FA01 Chief of Mission, Port Louis
FO01 Deputy Chief of Mission, Jakarta
FANC Chief of Mission, Rome
FO01 Deputy Chief of Mission, Moscow
FA01 Chief of Mission, Sofia
FR01 Director Political Military, PM/OD
FO01 Deputy Assistant Secretary, DGP/PER
FA01 Chief OF Mission, Seoul
FO01 Deputy Chief of Mission, Brussels NTO
FANC Chief of Mission, New Delhi
FA01 Chief of Mission, Quito
FO01 Deputy Assistant Secretary, EUR
FO01 Deputy Assistant Secretary, ARA
FR01 Deputy Assistant Secretary, ARA
FO01 Deputy Assistant Secretary, AF
FO01 Deputy Assistant Secretary, OES/ENP
FANC Chief of Mission, Algiers
FA01 Chief of Mission, Kathmandu
FO01 Deputy Assistant Secretary, IO
FO01 Principal Officer, Munich
FR01 Dep US Representative, Vienna-MBFR
FO01 Deputy Chief of Mission, Rome
FA01 Chief of Mission, Lilongwe
FO01 Deputy Assistant Secretary, CA
FR01 Deputy Assistant Secretary, EB
FO01 Principal Officer, Istanbul
FANC Chief of Mission, Niamey
FANC Chief of Mission, Tegucigalpa
FO01 Principal Officer, Johnannesburg
FR01 Deputy Assistant Secretary, AF
FA01 Chief of Mission, PRT-AU-PRN
FANC Chief of Mission, The Hague
RU01 Deputy Director PM, PM/AC
FANC Chief of Mission, Budapest
RU01 Assistant Secretary, EB
FO01 Deputy Assistant Secretary, AF
FANC Chief of Mission, Stockholm
FO01 Deputy Chief of Mission, Tunis
FO01 Dep US Representative, IAEA Vienna
FANC Chief of Mission, Singapore
FO01 Deputy Director Policy Analysis and Reso, S/P
FA01 Chief of Mission, Nouakchott
FO01 Deputy Chief of Mission, Ankara
FA01 Chief of Mission, Santiago
FO01 Principal Officer, Havana
FA01 Chief of Mission, Kingston
FANC Chief of Mission, Nairobi
FO01 United States Representative, Vienna
FO01 Principal Officer, Frankfurt
FO01 Dep US Representative, USUN
FANC Chief of Mission, Oslo
FA01 Chief of Mission, Tel Aviv
FO01 Principal Officer, Dhahran
FA01 Chief of Mission, Freetown
FA01 Chief of Mission, Lusaka
FA01 Chief of Mission, Luxembourg
FANC Chief of Mission, Mexico D.F
FA01 Chief of Mission, Caracas
FO01 Principal Officer, Vancouver
FA01 Chief of Mission, Kuwait
FO01 Deputy Director of Management Operation, M/MO
FANC Chief of Mission, Tokyo
FANC Chief of Mission, Copenhagen
FO01 Deputy Director INR, INR/DD
GS-18 Deputy Legal Advisor, L
FO01 Deputy Chief of Mission, Stockholm
FA01 Chief of Mission, Jakarta
FO01 Deputy Chief of Mission, Cairo
GS-17 Deputy Director for Coord, INR/DDC
FANC Dep US Representative, IO/OIC/MTN
FA01 Chief of Mission, Prague
FR01 Deputy Assistant Secretary, EB/IFD
FO01 Deputy Inspector General, S/IG
GS-17 Deputy Legal Adviser, L
FO01 Deputy Assistant Secretary, NEA
FA01 Chief of Mission, Kuala LMPR
FO01 Deputy Chief of Mission, Athens
FO01 Principal Officer, Karachi
FANC Chief of Mission, Panama
FA01 Chief of Mission, Manila
FO01 Deputy Chief of Mission, Tehran
FO01 Deputy Chief of Mission, Pretoria
FO01 Principal Officer, Jerusalem
FA01 Chief of Mission, Gaborone
RU01 Deputy Assistant Secretary, OES/NET
FO01 Deputy Director PM, PM/AS
FO01 Deputy Assistant Secretary, EA
FO01 Dep US Representative, Geneva
FA01 Chief of Mission, Port Moresby
RU01 Deputy Chief of Mission, Brussels
FA01 Chief of Mission, Bridgetown
FO01 Deputy Director for Personnel, PER/FCA
FO01 Deputy Executive Secretary, S/S
FA01 Chief of Mission, Mogadiscio
FA01 Chief of Mission, Montevideo
FO01 US Rep to Tex Sur body of, US MIS GEN
FR01 Deputy Assistant Secretary, EB/TCA
FO01 Deputy Chief of Mission, Berlin
FR01 Spec Rep of Sec Pan treaty, S/PTA
FO01 Principal Officer, Melbourne
FO01 Deputy Chief of Mission, Lima
FO01 Deputy Assistant Secretary, DGP/PER
FA01 Chief of Mission, Helsinki
FO01 Deputy Chief of Mission, Vientiane
FR01 United States Representative, EA/PIA
FO01 Deputy Chief of Mission, Lisbon
FO01 Deputy Chief of Mission, OECD Paris
FANC United States Representative, OECD Paris
FR01 Scientific & Tech Aff Off, UNESCO PRS
FA01 Chief of Mission, Brasilia
FA01 Chief of Mission, Dacca
FR01 Deputy Assistant Secretary, HA/HR
FANC Chief of Mission, Nassau
RU01 Deputy Legal Adviser, L
FO01 Principal Officer, Casablanca
FA01 Chief of Mission, Damascus
FANC Chief of Mission, Wellington
FANC Chief of Mission, Dublin
FO01 Deputy Chief of Mission, Tokyo
FO01 Principal Officer, Hong Kong
FR01 Spec Adv to the Sec for S/MS
FR01 Deputy Assistant Secretary for A/FBO
FA01 Chief of Mission, Accra
FANC Chief of Mission, Yaounde
FANC Chief of Mission, Managua
FO01 Dep US Representative, US MIS GEN
FA01 Chief of Mission, DAR-ES-SAL
GS-18 Director F S Institute, M/FSI
FO01 Deputy Chief of Mission, Canberra
FA01 Chief of Mission, Abidjan
FO01 Deputy Chief of Mission, Seoul
FO01 Deputy Assistant Secretary, NEA
FO01 Dep US Representative, USUN
FA01 Chief of Mission, Nicosia
FO01 Deputy Chief of Mission, London
FO01 Deputy Assistant Secretary, EA
FO01 Principal Officer, Rotterdam
FO01 SA to Sec & Exec Sec of S/S
FR01 Deputy Assistant Secretary, OES/APT
FO01 Assistant Secretary, A
FA01 Chief of Mission, Libreville
FR01 United States Representatives, UNESCO PRS
FO01 Deputy Chief of Mission, Manila
FO01 Dep US Representative, ARA/USOAS
FANC United States Representative, US MIS GEN
FA01 Chief of Mission, Amman
FO01 Deputy Assistant Secretary, EUR
FANC Chief of Mission, Bern
FANC Chief of Mission, San Jose
FO01 United States Representative, USUN
FANC Chief of Mission, Jidda
FA01 Chief of Mission, Asuncion
FO01 Coordinator, T/CST
FANC Chief of Mission, Vienna
FANC Chief, US Liaison Office, Beijing
FANC Chief of Mission, Columbo
FO01 Deputy Chief of Mission, Lagos
FA01 Chief of Mission, Santo Dom.

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**AGENCY: DEPARTMENT OF THE TREASURY**

Positions:

**OFFICE OF THE SECRETARY**

GS-18 Inspector General

**OFFICE OF THE ASSISTANT SECRETARY FOR DOMESTIC FINANCE**

GS-18 Deputy Assistant Secretary, Debt Management
GS-18 Deputy Assistant Secretary, Capital Markets Policy
GS-17 Deputy Assistant Secretary, State and Local Finance

OFFICE OF THE ASSISTANT SECRETARY FOR INTERNATIONAL MONETARY AFFAIRS

GG–18 Deputy Assistant Secretary for International Monetary Affairs
GG–18 Deputy Assistant Secretary for Developing Nations Finance
GG–18 Deputy Assistant Secretary, Trade and Investment Policy
GG–18 Deputy Assistant Secretary, Commodities and Natural Resources

OFFICE OF THE ASSISTANT SECRETARY FOR TAX POLICY

GS–18 Deputy Assistant Secretary, Tax Policy
GS–18 Deputy Assistant Secretary, Tax Policy and Director, Office of Tax Analysis

LEGAL DIVISION

GS–18 Deputy General Counsel, Office of the General Counsel
GS–18 Assistant General Counsel and Director, Tax Legislative Counsel, Office of the General Counsel
GS–18 Deputy to the General Counsel for Tariff Affairs, Office of the General Counsel
GG–18 International Tax Counsel and Director, Office of International Tax Counsel, Office of the General Counsel

OFFICE OF CHIEF COUNSEL—CUSTOMS

SES Chief Counsel
SES Deputy Chief Counsel

OFFICE OF CHIEF COUNSEL—COMPTROLLER OF THE CURRENCY

GS–17 Chief Counsel
SES Deputy Chief Counsel

CUSTOMS SERVICE

GS–18 Deputy Commissioner
GS–18 Assistant Commissioner
GS–17 Assistant Commissioner, Regulations and Rulings
GS–17 Assistant Commissioner, Investigations
GS–17 Assistant Commissioner, Administration
SES Assistant Commissioner, Enforcement Support
SES Assistant Commissioner, Office of Security and Audit

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

GS–18 Director
GS–17 Deputy Director
SES Assistant Director, Regulatory Enforcement
SES Assistant Director, Criminal Enforcement
SES Assistant Director, Inspection
SES Chief Counsel
SES Deputy Chief Counsel

OFFICE OF CHIEF COUNSEL—ATF

GS–17 Chief Counsel
SES Deputy Chief Counsel

BUREAU OF ENGRAVING AND PRINTING

GS–18 Director
GS–17 Deputy Director
SES Legal Counsel

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

GS–18 Commissioner

BUREAU OF THE MINT

GS–18 Director
SES Associate Director for Technology
SES Legal Counsel

BUREAU OF PUBLIC DEBT

GS–18 Commissioner of Public Debt

U.S. SECRET SERVICE

SES Legal Counsel

OFFICE OF THE COMPTROLLER OF THE CURRENCY

GG–17 Deputy Comptroller for Special Examinations
GG–17 Chief National Bank Examiner
GG–17 Deputy Comptroller of the Currency, Special Surveillance
GG–17 Deputy Comptroller, Multinational Banking
GG–17 Deputy Comptroller, Research and Economic Programs
SES Deputy Comptroller for Administration
SES Senior Advisor to the Comptroller
SES Director, Bank Organization and Structure
SES Deputy Comptroller, Customer and Community Programs
SES Deputy Comptroller of the Currency for Interagency Coordination
SES Chief Counsel
SES Deputy Chief Counsel

OFFICE OF CHIEF COUNSEL—INTERNAL REVENUE SERVICE

SES Deputy Chief Counsel, General
SES Deputy Chief Counsel, Litigation
SES Deputy Chief Counsel, Technical

INTERNAL REVENUE SERVICE

SES Assistant Commissioner (EP/EO)
SES Assistant Commissioner (Compliance)
SES Assistant Commissioner (Technical)
SES Assistant Commissioner (Resources Management)
SES Assistant Commissioner (Planning & Research)
SES Assistant Commissioner (Taxpayer Service & Returns Processing)
SES Assistant Commissioner (Inspection)
SES Assistant Commissioner (Data Services)
SES Regional Commissioner, North Atlantic Region
SES Regional Commissioner, Midwest Region
SES Regional Commissioner, Western Region
SES Regional Commissioner, Southeast Region
SES Regional Commissioner, Central Region
SES Regional Commissioner, Southwest Region
SES Regional Commissioner, Mid-Atlantic Region

OFFICE OF THE GENERAL COUNSEL

SES Deputy General Counsel

U.S. SECRET SERVICE

SES Legal Counsel

U.S. CUSTOMS SERVICE

SES Chief Counsel
SES Deputy Chief Counsel
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## AGENCY: ACTION

Positions:
FR–1 Assistant Director for Policy and Planning
FR–1 Assistant Director for Recruitment and Communications
FR–1 Assistant Dirctor for Compliance
FR–1 Deputy Associate Director for Peace Corps
FR–1 Deputy Director for Peace Corps Programs
FR–1 Regional Director for Latin America
FR–1 Regional Director for Africa
SES Executive Officer
SES General Counsel
SES Deputy Associate Director for Domestic and Anti-Poverty Operations
SES Assistant Director for Administration and Finance
SES Executive Assistant for Programs
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## AGENCY: ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

*Positions:*

SES Executive Secretary
SES Executive Director
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## AGENCY: ADVISORY COUNCIL ON HISTORIC PRESERVATION

*Positions:*

SES Principal Deputy Executive Director
SES Deputy Executive Director
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## AGENCY: AMERICAN BATTLE MONUMENTS COMMISSION

*Positions:*

0–8 Secretary
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## AGENCY: APPALACHIAN REGIONAL COMMISSION

*Positions: No section 207(d)(1)(C) designations*
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## AGENCY: CIVIL AERONAUTICS BOARD

*Positions:*

SES Managing Director, Office of Managing Director
SES Director, Bureau of Carrier Accounts & Audits
SES General Director, Bureau of Domestic Aviation and Bureau of International Aviation
SES Director, Bureau of Domestic Aviation
SES Deputy Director, Bureau of Domestic Aviation
SES Director, Bureau of International Aviation
SES Deputy Director, Bureau of International Aviation

SES Director, Office of Economic Analysis
SES General Counsel, Office of the General Counsel
SES Deputy General Counsel, Office of the General Counsel
SES Director, Bureau of Consumer Protection
SES Deputy Director, Bureau of Consumer Protection.
SES Director, Office of Human Resources
SES Comptroller, Office of Comptroller
SES Director, Office of Community & Congressional Relations

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## AGENCY: COMMODITY FUTURES TRADING COMMISSION

*Positions:*
SES Deputy Executive Director
SES Director, Division of Enforcement
SES Deputy Director, Division of Enforcement
SES Chief Economist, Division of Economics and Education
SES Deputy Chief Economist, Division of Economics and Education
SES Director, Division of Trading and Markets
SES Deputy Director, Division of Trading and Markets
SES Director, Division of Management Program Planning and Evaluation
SES Regional Director, Central Region
SES Regional Director, Eastern Region
SES Deputy General Counsel, Office of General Counsel

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## AGENCY: CONSUMER PRODUCT SAFETY COMMISSION

*Positions:*
SES General Counsel
SES Deputy General Counsel
SES Executive Director
SES Deputy Executive Director
SES Associate Executive Director for Engineering and Science
SES Associate Executive Director for Hazard Identification and Analysis
SES Associate Executive Director for Field Operations
SES Associate Executive Director for Administration
SES Associate Executive Director for Compliance and Enforcement
SES Associate Executive Director for Communications
SES Director, Office of Program Management
SES Director, Office of Strategic Planning

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## AGENCY: ENVIRONMENTAL PROTECTION AGENCY

*Positions:*
GS–17 Regional Administrator, Region I, Boston
GS–17 Regional Administrator, Region II, New York
GS–17 Regional Administrator, Region III, Philadelphia
GS–17 Regional Administrator, Region IV, Atlanta
GS–17 Regional Administrator, Region V, Chicago
GS–17 Regional Administrator, Region VI, Dallas
GS–17 Regional Administrator, Region VII, Kansas City
GS–17 Regional Administrator, Region VIII, Denver
GS–17 Regional Administrator, Region IX, San Francisco
0–7 Regional Administrator, Region X, Seattle
SES Associate Assistant Administrator for Research and Development
SES Associate Assistant Administrator for Planning and Management
SES Associate Assistant Administrator for Management Reform
SES Associate Assistant Administrator for Program Management and Policy
SES Deputy Assistant Administrator for Management and Agency Services
SES Deputy Assistant Administrator for Resource Management
SES Deputy Assistant Administrator for Planning and Evaluation
SES Deputy Assistant Administrator for Water Enforcement
SES Deputy Assistant Administrator for Mobile Source and Noise Enforcement
SES Deputy Assistant Administrator for General Enforcement
SES DAA/Mobile Source Air Pollution Control
SES Deputy Assistant Administrator for Radiation Programs
SES Deputy Assistant Administrator for Noise Abatement and Control
SES Deputy Assistant Administrator for Water Program Operations
SES Deputy Assistant Administrator for Water Planning and Standards
SES Deputy Assistant Administrator for Solid Waste
SES Deputy Assistant Administrator for Drinking Water
SES Deputy Assistant Administrator for Pesticides Programs
SES Deputy Assistant Administrator for Program Integration and Information
SES Deputy Assistant Administrator for Testing and Evaluation
SES Deputy Assistant Administrator for Chemical Control
SES Deputy Assistant Administrator for Monitoring and Technical Support
SES Deputy Assistant Administrator for Health and Ecological Effects
SES Deputy Assistant Administrator for Air, Land and Water Use
SES Deputy Assistant Administrator for Energy, Minerals, and Industry
SES General Counsel
SES Deputy General Counsel
SES Deputy Inspector-General for Audits
SES Deputy Inspector-General for Inspection
SES Executive Assistant (technical) to the Administrator
SES Assistant to the Deputy Administrator
SES Director of Environmental Review
SES Director of Legislation
SES Director, Registration Division (OTS)
SES Director, Control Action Division (OTS)
SES Director, Premanufacturing Review Division (OTS)
SES Director, Criteria and Assessment Office-RTP (ORD)
SES Staff Director, Regulatory Council
SES Deputy Staff Director, Regulatory Council

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## AGENCY: EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

*Positions:*
SES Associate General Counsel, Trial Division
SES Executive Director
SES Deputy Executive Director
SES Director, Office of Special Projects and Programs
SES Director, Office of Program Planning and Evaluation
SES Deputy General Counsel

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## AGENCY: EXPORT-IMPORT BANK OF THE UNITED STATES

*Positions:*
GS–18 General Counsel
GS–17 Deputy General Counsel
GS–17 Senior Vice President, Exporter Credits Guarantees and Insurance
GS–17 Senior Vice President, Policy Analysis and Communications
GS–17 Senior Vice President, Direct Credits and Financial Guarantees
GS–17 Senior Vice President, International Affairs

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## AGENCY: FARM CREDIT ADMINISTRATION

*Positions:*
SES Senior Deputy Governor
SES Chief of Staff to the Senior Deputy Governor
SES General Counsel
SES Deputy Governor, Office of Supervision
SES Assistant Deputy Governor, Office of Supervision
SES Deputy Governor, Office of Finance
SES Deputy Governor and Chief Examiner
SES Deputy Governor, Office of Administration
SES Director, Administrative Division

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## AGENCY: FEDERAL COMMUNICATIONS COMMISSION

*Positions:*
SES General Counsel
SES Chief, Broadcast Bureau
SES Chief Scientist
SES Chief, Common Carrier Bureau
SES Chief, Field Operations Bureau
SES Deputy Chief, Broadcast Bureau
SES Executive Director
SES Managing Counsel, Compliance & Litigation Task Force
SES Chief, Private Radio Bureau
SES Chief, Opinions and Review
SES Deputy Chief Scientist
SES Deputy Chief, Common Carrier Bureau
SES Chief, Office of Plans and Policy
SES Deputy General Counsel
SES Chief, Cable Television Bureau
SES Deputy Chief, Cable Television Bureau
SES Deputy Chief, Field Operations Bureau

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**AGENCY: FEDERAL DEPOSIT INSURANCE CORPORATION**

*Positions:*

AD–18 Executive Secretary and Deputy to the Chairman
AD–18 Assistant to Chairman
AD–18 Assistant to Director
GG–17 Director, Office of Employee Relations
GG–17 Director, Office of Personnel Management
AD–18 Controller
AD–18 Director, Division of Management Systems and Financial Statistics
GG–17 Deputy Director, Division of Management Systems and Financial Statistics
GG–17 Director, Corporate Audits
AD–18 Acting General Counsel
AD–18 Director, Division of Bank Supervision
GG–17 Deputy Directors, Division of Bank Supervision (2)
GG–17 Deputy Director, Division of Liquidation
AD–18 Director, Division of Liquidation
AD–18 Director, Division of Research
GG–18 Counsel to the Chairman of Board of Directors
GG–18 Special Assistant to the Chairman
GG–17 Deputy General Counsel

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**AGENCY: FEDERAL ELECTION COMMISSION**

Positions: No section 207(d)(1)(C) designations

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**AGENCY: FEDERAL ENERGY REGULATORY COMMISSION**

*Positions:*

SES Executive Director, Office of the Executive Director
SES Director, Office of Electric Power Regulation
SES Deputy Director, Office of Electric Power Regulation
SES Director, Office of Pipeline and Producer Regulation
SES Deputy Director, Office of Pipeline and Producer Regulation
SES General Counsel, Office of General Counsel
SES Deputy General Counsel, Office of General Counsel
SES Director, Office of Regulatory Analysis
SES Chief Accountant, Office of Chief Accountant
SES Deputy Chief Accountant, Office of Chief Accountant
SES Director, Office of Enforcement
SES Director, Office of Opinions and Review
SES Deputy Director, Office of Opinions and Review

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**AGENCY: FEDERAL HOME LOAN BANK BOARD**

*Positions:*

SES Director, Special Studies Division
GS–18 General Counsel
GS–18 Director, Office of District Banks
GS–18 Director, Office of Community Investment
GS–18 Director, Office of Economic Research
GS–18 Director, Federal Savings and Loan Insurance Corporation
GS–18 Director, Office of Industry Development
GS–17 Assistant to the Chairman

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**AGENCY: FEDERAL HOME LOAN MORTGAGE CORPORATION**

*Positions:*

AD President—Chief Executive Officer
AD Executive Vice President—Chief Operating Officer
AD Executive Vice President—Chief Administrative Officer
AD Senior Vice President—General Counsel
AD Regional Senior Vice President—Los Angeles
AD Executive Vice President—Chief Financial Officer

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**AGENCY: FEDERAL LABOR RELATIONS AUTHORITY**

*Positions:*

SES Members of the Panel (7)
SES Executive Director of the Authority
SES Deputy Executive Director of the Authority
SES Chief, Representation and Unfair Labor Practice Division
SES Deputy General Counsel of the Authority

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**AGENCY: FEDERAL MARITIME COMMISSION**

*Positions:*

SES General Counsel
SES Managing Director
SES Director, Bureau of Ocean Commerce Regulation
SES Deputy Director, Bureau of Ocean Commerce Regulation
SES Deputy General Counsel, Division of Reports, Opinions and Decisions
SES Deputy General Counsel, Division of Legislation, Orders and Legal Research and Assistance
SES Director, Bureau of Hearing Counsel
SES Director, Bureau of Certification and Licensing
SES Director, Bureau of Enforcement
SES Director, Bureau of Industry Economics
SES Secretary

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**AGENCY: FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

*Positions:*

SES Executive Director
SES General Counsel

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**AGENCY: FEDERAL RESERVE SYSTEM**

*Positions:*

FRO–I Secretary of the Board
FRO–I Staff Director for Monetary and Financial Policy
FRO–I Staff Director for Management
FRO–I Director, Division of Research and Statistics
FRO–I General Counsel
FRO–I Director, Division of Banking Supervision and Regulation
FRO–I Director, Division of International Finance
FRO–I Staff Director for Federal Reserve Bank Activities
FRO–II Assistants to the Board (3)
FRO–II Deputy Staff Director for Monetary and Financial Policy
FRO–II Director, Division of Federal Reserve Bank Examination and Budgets
FRO–II Director, Division of Consumer Affairs
FRO–II Director, Division of Data Processing
FRO–II Director, Division of Federal Reserve Bank Operations
FRO–II Executive Secretary, Federal Bank Examination Council
FRO–II Deputy General Counsel
FRO–II Director, Division of Personnel
FRO–III Controller
FRO–III Assistant to the Board

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**AGENCY: FEDERAL TRADE COMMISSION**

*Positions:*

SES Director, Office of Policy Planning
SES General Counsel
SES Deputy General Counsel
SES Director, Bureau of Competition
SES Deputy Directors, Bureau of Competition
SES Director, Bureau of Consumer Protection
SES Deputy Directors, Bureau of Consumer Protection
SES Director, Bureau of Economics
SES Executive Director
SES Assistant to the Chairman
SES Deputy Director, Office of Policy Planning
SES Deputy Director, Bureau of Economics

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**AGENCY: FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES**

*Position:* No section 207(d)(1)(C) designations

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**AGENCY: GENERAL SERVICES ADMINISTRATION**

*Positions:*

OFFICE OF THE ADMINISTRATOR

SES Special Assistant to the Administrator
SES Assistant Administrator for Field Operations
SES Assistant Administrator for External Affairs

SES Deputy Assistant Administrator for External Affairs
SES Director of Information Security Oversight
SES Assistant Administrator for Acquisition Policy
SES Deputy Assistant Administrator for Acquisition Policy
SES Director, Acquisition Management and Review Directorate
SES Director, Contract Clearance Directorate
SES Director, Acquisition Policy Directorate

**OFFICE OF MANAGEMENT, POLICY AND BUDGET**

SES Assistant Administrator for Management, Policy and Budget
SES Deputy Assistant Administrator for Management, Policy and Budget
SES Director of Finance
SES Director of Budget
SES Director of Data Systems
SES Director of Planning and Analysis

**AUTOMATED DATA AND TELECOMMUNICATIONS SERVICE (ADTS)**

SES Deputy Commissioner, ADTS
SES Assistant Commissioner, Office of Policy and Planning, Program Management Officer
SES Assistant Commissioner, Office of Agency Services and Procurement, Program Management Officer
SES Assistant Commissioner, Office of Systems Engineering and Operations, Supervisory Electronics Engineer
SES Executive Director, ADTS; Program Management and Policy Planning Officer
SES Director, Voice Communications Systems Division, Supervisory Electronics Engineer
SES Director, Advanced Planning and Research Division, Supervisory Electronics Engineer
SES Director, Data Communications Systems Division, Supervisory Electronic Engineer

**FEDERAL PROPERTY RESOURCES SERVICE (FPRS)**

SES Commissioner, Federal Property Resources Services
SES Deputy Commissioner, Federal Property Resources Service
SES Assistant Commissioner, Office of Real Property
SES Assistant Commissioner, Office of Personal Property
SES Assistant Commissioner, Office of Property Management
SES Assistant Commissioner, Office of Stockpile Disposal

**FEDERAL SUPPLY SERVICE (FSS)**

SES Deputy Commissioner, FSS
SES Director, Quality Assurance and Reliability Office
SES Director, Office of Program Review and Resource Management
SES Director, Office of Programs and Requirements
SES Director, Office of Contracts
SES Director, Office of Requirements
SES Deputy Director, Office of Contracts
SES Director, Office of Supply

**NATIONAL ARCHIVES AND RECORDS SERVICE (NARS)**

SES Deputy Archivist
SES Executive Director

**PUBLIC BUILDINGS SERVICE (PBS)**

SES Deputy Commissioner, PBS
SES Assistant Commissioner for Program Support
SES Assistant Commissioner for Space Planning and Management
SES Assistant Commissioner for Buildings Management
SES Assistant Commissioner for Construction Managment
SES Deputy Assistant Commissioner for Construction Managment
SES Assistant Commissioner for Contracts
SES International Projects Officer
SES Deputy Assistant Commissioner for Construction Programs

**TRANSPORTATION AND PUBLIC UTILITIES SERVICE (TPUS)**

SES Assistant Commissioner, Office of Transportation and Travel Managment
SES Deputy Commissioner, TPUS
SES Assistant Commissioner for Public Utilities
SES Assistant Commissioner for Motor Equipment

**OFFICE OF GENERAL COUNSEL (OGC)**

SES General Counsel
SES Deputy General Counsel

## GSA BOARD OF CONTRACT APPEALS

*Positions:* No Section 207(d)(1)(C) Designations

**REGIONAL OFFICES**

SES Regional Administrator, Region 1 (Boston)
SES Regional Administrator, Region 2 (New York)
SES Regional Administrator, Region 3 (Philadelphia)
SES Regional Administrator, Region 4 (Atlanta)
SES Regional Administrator, Region 5 (Chicago)
SES Regional Administrator, Region 6 (Kansas City)
SES Regional Administrator, Region 7 (Fort Worth)
SES Regional Administrator, Region 8 (Denver)
SES Regional Administrator, Region 9 (San Francisco)
SES Regional Administrator, Region 10 (Auburn)
SES Regional Administrator, National Capitol Area (Washington, D.C.)

**OFFICE OF HUMAN RESOURCES AND ORGANIZATION**

SES Assistant Administrator for Human Resources and Organization

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## AGENCY: INTERNATIONAL COMMUNICATION AGENCY

*Positions:*
GS–17 Executive Assistant to the Director
FSIO–1 Director, Congressional and Public Liaison
FSIO–1 Chief, Congressional Liaison Office
SES General Counsel
SES Deputy General Counsel
FSIO–1 Deputy Associate Director for Educational and Cultural Affairs
GG–18 Director for Institutional Relations
FSIO–1 Director of Cultural Centers and Resources
GG–17 Director, Office of Academic Programs

**THE DIRECTORATE FOR BROADCASTING**

**(The Voice of American)**

FSIO–1 Deputy Associate Director
SES Director of Administration
FSIO–1 Director, Office of Progams
SES Director of Engineering and Technical Operations

**THE DIRECTORATE FOR MANAGEMENT**

FSIO–1 Director of Administrative Services
SES Director of Comptroller Services
SES Director of Personnel Services
SES Director Office of Systems Technology

**THE DIRECTORATE FOR PROGRAMS**

SES Director of Exhibits Service
FSIO–1 Director of Press and Publication Services
FSIO–1 Director of Television and Film Service
FSIO–1 Deputy Associate Director
SES Executive Officer
FSIO–1 Director of African Affairs
SES Deputy Director of African Affairs
FSIO–1 Director of European Affairs
FSIO–1 Deputy Directors of European Affairs(2)
FSIO–1 Deputy Director of European Affairs (Exchanges)
FSIO–1 Director of East Asian and Pacific Affairs
FSIO–1 Deputy Directors of East Asian and Pacific Affairs(2)
FSIO–1 Director of American Republic Affairs
FSIO–1 Deputy Director of American Republic Affairs
FSIO–1 Director of North African, Near Eastern and South Asian Affairs
FSIO–1 Deputy Director of North African and Near Eastern Affairs
FSIO–1 Deputy Director of South Asian Affairs
FSIO–1 Public Affairs Officers of Class I Posts

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## AGENCY: INTERSTATE COMMERCE COMMISSION

*Positions:*
SES Managing Director
SES General Counsel
SES Director, Bureau of Operations
SES Director, Bureau of Investigations and Enforcement
SES Director, Bureau of Traffic
SES Director, Bureau of Accounts
SES Director, Office of Proceedings
SES Director, Office of Policy and Analysis/ Rail Services Planning Office
SES Assistant Managing Director
SES Deputy General Counsel

SES Associate Director, Office of Proceedings
SES Associate Director, Office of Policy and Analysis/Rail Services Planning Office
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## AGENCY: NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

*Positions:*

OFFICE OF THE ADMINISTRATOR

*Positions:* No section 207(d)(1)(C) designations

OFFICE OF THE COMPTROLLER

SES Deputy Comptroller

OFFICE OF LEGISLATIVE AFFAIRS

SES Deputy Director, Legislative Affairs

OFFICE OF THE CHIEF ENGINEER

SES Chief Engineer, NASA
SES Deputy Chief Engineer, NASA

OFFICE OF SPACE AND TERRESTRIAL APPLICATIONS

SES Deputy Associate Administrator for Space and Terrestrial Application

OFFICE OF GENERAL COUNSEL

SES Deputy General Counsel, NASA

OFFICE OF PROCUREMENT

SES Director of Procurement
SES Deputy Director of Procurement

OFFICE OF EXTERNAL RELATIONS

SES Associate Administrator for External Relations
SES Deputy Associate Administrator for External Relations

OFFICE OF SPACE TRANSPORATION SYSTEMS

SES Deputy Associate Administrator for Space Transportation Systems

OFFICE OF MANAGEMENT OPERATIONS

SES Deputy Associate Administrator for Management Operations

OFFICE OF THE CHIEF SCIENTIST

SES Chief Scientist (Associate Administrator)
SES Deputy Chief Scientist (Deputy Associate Administrator)

OFFICE OF AERONAUTICS AND SPACE TECHNOLOGY

SES Deputy Associate Administrator for Aeronautics and Space Technology

OFFICE OF SPACE SCIENCE

SES Deputy Associate Administrator for Space Science

OFFICE OF SPACE TRACKING AND DATA SYSTEMS

SES Deputy Associate Administrator for Space Tracking and Data Systems

OFFICE OF EQUAL OPPORTUNITY PROGRAMS

SES Director of Equal Opportunity Programs
SES Deputy Director of Equal Opportunity Programs

INSPECTOR GENERAL

SES Deputy Inspector General

AMES RESEARCH CENTER

SES Director, NASA Ames Research Center
SES Deputy Director, NASA Ames Research Center

DRYDEN FLIGHT RESEARCH CENTER

SES Director, NASA Dryden Flight Research Center
SES Deputy Director, NASA Dryden Flight Research Center

GODDARD SPACE FLIGHT CENTER

SES Director, NASA Goddard Space Flight Center
SES Deputy Director, NASA Goddard Space Flight Center

JOHNSON SPACE CENTER

SES Director, NASA Johnson Space Center
SES Deputy Director, NASA Johnson Space Center

KENNEDY SPACE CENTER

SES Director, NASA Kennedy Space Center
SES Deputy Director, NASA Kennedy Space Center

LANGLEY RESEARCH CENTER

SES Director, NASA Langley Research Center
SES Deputy Director, NASA Langley Research Center

LEWIS RESEARCH CENTER

SES Director, NASA Lewis Research Center
SES Deputy Director, NASA Lewis Research Center

MARSHALL SPACE FLIGHT CENTER

SES Director, NASA Marshall Space Flight Center
SES Deputy Director, NASA Marshall Space Flight Center

NATIONAL SPACE TECHNOLOGY LABORATORIES

SES Manager, National Space Technology Laboratories
SES Deputy Manager, National Space Technology Laboratories

WALLOPS FLIGHT CENTER

SES Director, NASA Wallops Flight Center
SES Associate Director, NASA Wallops Flight Center
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## AGENCY: NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD

*Positions:*
GS–17 Executive Director
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## AGENCY: NATIONAL CREDIT UNION ADMINISTRATION

*Positions:*
SES General Counsel
SES Assistant Administrator for Examination and Insurance
SES Assistant Administrator for Administration and Regional Coordination
SES Assistant Administrator for Asset Management, Fiscal Affairs, and Information Systems
SES Assistant Administrator for Internal Audit and Investigation
SES Assistant Administrator for Research and Analysis
SES Regional Director
SES Director, Office of Policy Analysis
SES Deputy Director, Examination and Insurance
SES Deputy General Counsel
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## AGENCY: NATIONAL ENDOWMENT FOR THE ARTS

*Positions:*
GS–18 Deputy Chairman for Policy and Planning
GS–17 Deputy Chairman for Programs
GS–17 Deputy Chairman, Federal Council on the Arts and the Humanities
SES Director of Media Arts
SES Director of Architecture, Planning and Design
SES Director of Federal-State Partnership
SES Director of Expansion Arts
SES Director of Museums
SES General Counsel
SES Director of Program Coordination
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## AGENCY: NATIONAL LABOR RELATIONS BOARD

*Positions:*
SES Solicitor
SES Executive Secretary
SES Deputy General Counsel
SES Director, Office of Appeals
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## AGENCY: NATIONAL SCIENCE FOUNDATION

*Positions:*
SES Director, Office of Audit and Oversight
SES Director, Office of Operations
SES Director, Office of Operations & Analysis
SES Director, Office of Government & Public Programs
SES Director, Office of Planning & Resources Management
SES Director, Office of Small Business Research & Development
SES Deputy Assistant Director, Science Education
SES Deputy Assistant Director, Astronomical, Atmospheric, Earth & Ocean Sciences
SES Deputy Assistant Director, Mathematical & Physical Sciences & Engineering
SES Deputy Assistant Director, Scientific, Technological & International Affairs
SES Deputy Assistant Director, Administration
SES Deputy Assistant Director, Biological, Behavioral, & Social Sciences
SES General Counsel
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## AGENCY: NATIONAL TRANSPORTATION SAFETY BOARD

*Positions:*

SES Managing Director
SES Deputy Managing Director
SES General Counsel
SES Deputy General Counsel
SES Director, Bureau of Accident Investigation
SES Director, Bureau of Technology
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## AGENCY: OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

*Positions:*
SES Executive Director
SES General Counsel
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## AGENCY: OFFICE OF PERSONNEL MANAGEMENT

*Positions:*
SES Assistant Director, Office of Intergovernmental Personnel Programs
SES Deputy Associate Director for Standards and Selection Methods
SES Assistant Director, Office of Labor-Management Relations
SES Assistant Director, Office of Policy Analysis
SES Deputy Associate Director for Staffing, Staffing Services Group
SES Chairman, Federal Prevailing Rate Advisory Committee
SES Deputy Associate Director for Benefits Policy, Compensation Group
SES General Counsel, Office of the General Counsel
SES Director—Southeast Regional Office
SES Executive Director, President's Commission on Personnel Interchange
SES Director, Retirement and Insurance Division, Compensation Group
SES Assistant Director for Agency Compliance and Evaluation, Agency Relations Group
SES Director (Acting), Office of Administrative Law Judges, Executive Personnel and Management Development Group
SES Assistant Director for Staffing, Staffing Services Group
SES Deputy Associate Director for Compensation Operations, Compensation Group
SES Director—Eastern Regional Office
SES Director, Retirement Operations Branch, Compensation Group
SES Director—Great Lakes Regional Office
SES Director—Mid-Atlantic Regional Office
SES Director—Southwest Regional Office
SES Director—Western Regional Office
SES Assistant Director, Insurance Operations Branch, Compensation Group
SES Acting Director, Federal Executive Institute
SES Chief, Medical Operations Branch, Compensation Group
SES Deputy Assistant Director for Labor-Management Relations
SES Chief, Personnel Research and Development Center, Staffing Services Group
SES Assistant Director, Office of Affirmative Employment Programs
SES Deputy Assistant Director for Grants Administration, Office of Intergovernmental Personnel Programs
SES Director, President's Commission on White House Fellows
SES Deputy Assistant Director for Personnel Management Assistance, Office of Intergovernmental Personnel Programs
SES Director, Office of Management
SES Deputy Associate Director for Personnel Investigations
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## AGENCY: PENSION BENEFIT GUARANTY CORPORATION

*Positions:*
GS–17 Deputy Executive Director
GS–17 General Counsel
GS–17 Director, Office of Program Operations
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## AGENCY: POSTAL RATE COMMISSION

*Positions:*
GS–18 General Counsel of Commission
GS–18 Director of Planning and Operations
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## AGENCY: PRESIDENTIAL COMMISSION ON WORLD HUNGER

*Positions:*
SES Executive Director
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## AGENCY: RAILROAD RETIREMENT BOARD

*Positions:*
GS–17 Chief Executive Officer
GS–18 Director, Bureau of Retirement Claims
GS–17 Director of Research
GS–17 General Counsel
GS–17 Chief Actuary
SES Deputy Executive Officer
SES Director, Bureau of Data Processing and Accounts
SES Director, Bureau of Unemployment and Sickness Insurance
SES Director, Bureau of Budget and Fiscal Operations
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## AGENCY: SECURITIES AND EXCHANGE COMMISSION

*Positions:*
SES General Counsel
SES Director, Division of Corporation Finance
SES Director, Division of Corporate Regulation
SES Director, Division of Enforcement
SES Director, Division of Investment Management
SES Director, Division of Market Regulation
SES Deputy Director, Division of Corporation Finance
SES Deputy Director, Division of Market Regulation
SES Chief Accountant of the Commission
SES Deputy Chief Accountant
SES Executive Director
SES Regional Administrator, New York
SES Regional Administrator, Chicago
SES Regional Administrator, Los Angeles
SES Deputy Director, Division of Enforcement
SES Principal Associate General Counsel
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## AGENCY: SMALL BUSINESS ADMINISTRATION

*Positions:*
SES Director, Office of Business Development
SES Associate Administrator for Policy, Planning and Budgeting
SES Director, Office of Program Development
GS–18 Assistant Administrator for Data Management Services
SES Regional Director, Region I
SES Regional Director, Region II
SES Regional Director, Region III
SES Regional Director, Region IV
SES Regional Director, Region V
SES Regional Director, Region VI
SES Regional Director, Region VII
SES Regional Director, Region VIII
SES Regional Director, Region IX
SES Regional Director, Region X
SES Special Assistant to the Administrator and Director, Equal Employment Opportunity and Compliance
SES General Counsel
GS–17 Deputy General Counsel
SES Chief Counsel for Advocacy
SES Associate Administrator for Procurement Assistance
SES Associate Administrator for Management Assistance
SES Director, Office of Field Management
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## AGENCY: TENNESSEE VALLEY AUTHORITY

*Positions:* NO SECTION 207(d)(1)(C) DESIGNATIONS
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## AGENCY: UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

*Positions:*
SES General Counsel
SES U.S. Commissioner, SCC
SES Public Affairs Adviser
SES The Special Assistant
SES The Counselor
SES Chief Scientist
SES GAC Executive Director
SES Administrative Director
SES Chief of Operations Analysis
SES Deputy General Counsel
SES Ambassador to CD, D
SES Deputy Assistant Director, MA
SES Deputy Public Affairs Adviser, PA
SES Representative to MBFR
SES Special Assistant, PA
SES Senior Negotiator for Arms Trf., WEC
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## AGENCY: UNITED STATES RAILWAY ASSOCIATION

*Positions:*
AD President
AD Vice President and General Counsel
AD Vice President Finance

AD Vice President Operations and Marketing

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AGENCY: WATER RESOURCES COUNCIL

*Positions:*

SES Director
SES Chairman, Great Lakes Basin Commission
SES Chairman, Missouri River Basin Commission
SES Chairman, New England River Basin Commission
SES Chairman, Ohio River Basin Commission
SES Chairman, Pacific Northwest River Basin Commission
SES Chairman, Upper Mississippi River Basin Commission

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Authority: 18 U.S.C. 207(d)(1)(C).

[FR Doc. 79-29296 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### 7 CFR 272 and 273

[Amdt. No. 151]

### Shelter and Medical Deductions

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Emergency final rule.

**SUMMARY:** This rule sets forth changes in allowable deductions for the elderly and disabled mandated by Pub. L. 96-58. This law amended the Food Stamp Act of 1977 to allow the elderly and disabled to deduct medical expenses exceeding $35 per month and to receive a full deduction for shelter costs exceeding 50 percent of their adjusted income.

**DATES:** Effective Date: September 21, 1979.

**COMMENT PERIOD:** Comments must be received on or before November 21, 1979 to be assured of consideration.

**ADDRESS:** Comments should be submitted to: Alberta Frost, Acting Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250. All written comments will be open to public inspection at the offices of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 500 12th Street, SW., Washington, D.C. Room 658.

**FOR FURTHER INFORMATION CONTACT:** Susan McAndrew, Chief, Program Standards Branch, Food and Nutrition Service, Washington, D.C. 20250. Phone (202) 447-6535.

**SUPPLEMENTARY INFORMATION:** Pub. L. 96-58 (93 Stat. 389, August 14, 1979) amended the Food Stamp Act of 1977 to allow a deduction for medical expenses which exceed $35 incurred by persons who are 60 years of age or over or who receive disability benefits under Title II of the Social Security Act or Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act. In addition, households with one or more members meeting one of these criteria can claim the full amount of their shelter expense exceeding 50 percent of their income after all other deductions. Prior to this amendment, these households could claim only up to $90 (in the 48 contiguous States and the District of Columbia) for combined dependent care/excess shelter costs.

So States will have adequate time to meet the January 1, 1980, implementation deadline in the law, Robert Greenstein, Administrator, Food and Nutrition Service, has determined that this rulemaking be issued as an interim final rule. This approach is encouraged by the Conference Report (No. 96-394, P. 8) which says:

> To accomplish implementation in the swiftest manner possible, the Department of Agriculture should proceed quickly to complete the regulatory process for issuing the necessary regulations, including, where appropriate, waiver of notice and comment procedures under the Administrative Procedure Act as contrary to the public interest and unnecessary in light of the emergency and automatic nature of these provisions.

The law was enacted on August 14, 1979. Our experience with implementation lead time needed by States to revise their forms and procedures, train staff and notify the public of changes indicates that they would not have enough time to implement these rules by January 1, 1980 if prior notice and comment procedures were followed. Therefore, States must rely solely on this emergency final rulemaking to plan for and implement the new deduction system.

However, because of the importance of this rule, the Department is seeking public comment on it and will accept comments for 60 days following its publication. The Department will carefully review all comments received and will consider modifying or refining this emergency final rule sometime after it has been implemented, if comments or implementation itself suggest necessary changes.

*Medical Expenses*

The law and these regulations limit medical expenses to those incurred by persons 60 years of age or older, or who receive SSI benefits under Title XVI of the Social Security Act or disability payments under Title II of the Social Security Act. Other household members, including spouses and dependents not eligible in their own right, cannot claim their medical costs. Not all disabled persons, but only those receiving income from the sources specified above are entitled to the deduction. For example, in Puerto Rico, Guam, and the Virgin Islands where no SSI program exists, recipients of Title II disability payments are eligible for these deductions, but those receiving only the Aid to the Permanently and Totally Disabled or other forms of disability payments are not. An individual is considered to be an SSI recipient upon receipt of the initial SSI payment, including an emergency check issued by the State based on presumptive eligibility.

The legislation broadly defines allowable medical expenses. The legislative history further directs the Department to rely on previous regulations and guidelines issued pursuant to the Food Stamp Act of 1964 to determine which medical expenses in addition to those specifically cited should be allowed. (Conference Report, P. 8). The regulations, therefore, expand the statutory definition of allowable medical expenses to include previously deductible expenses. Allowable medical expenses include medical and dental care (including remedial care recognized by the State); hospitalization and nursing care; prescription and over-the-counter drugs if prescribed by a State-licensed practitioner; health and hospitalization insurance policy premiums; Medicare premiums; dentures, hearing aids, and prosthetics; the cost of securing and maintaining a seeing eye dog; eyeglasses if prescribed by a physician or optometrist; reasonable costs of transportation to obtain medical treatment or services; and the cost of maintaining an attendant, housekeeper, or home health aid necessary due to age, infirmity, or illness. The legislation and regulations continue to disallow the cost of special diets.

The Department believes that in legislating the medical expense deduction, Congress was concerned with individuals faced with high medical costs which were not recoverable through public or private sources. (Cong. Rec. August 2, 1979, P. H7067). Medicaid and Medicare cover a significant portion of the medical expenses of the elderly and low-income households. The Department believes that Congress did not intend to provide a medical expense

deduction for those expenses which do not represent actual out-of-pocket expenses to the household. In cases where the household claims a deduction for billed medical expenses which the household can verify will neither be paid directly, nor reimbursed by either an insurance company or government program the deduction will be immediately available.

The Department considered two approaches for dealing with cases where the household claims a deduction for billed medical expenses but where the household does not know or cannot verify the extent to which the billed expenses will be reimbursed: the method used in regulations and instructions issued under the 1964 Act which considered an expense deductible in the month paid, or a modification of the current method which considers an expense deductible in the month billed, regardless of when the bill is actually paid.

Under the 1964 Act, the household was given a deduction if payments were actually being made on the bill pending reimbursement. The household was required to report receipt of reimbursement, and the deduction would end if the reimbursement was sufficient to cover the remaining expense. The alternative approach modifies the as billed method so as to provide that the billed expense is deductible in the month in which the reimbursement is received or can otherwise be verified, rather than when the bill is first received. Only the nonreimbursable portion is deductible.

The Department believes that, Congress intended that only nonreimbursable medical expenses should be deductible. The former "as paid" approach was rejected because it is administratively complex, confusing to both participants and workers and potentially error-prone. The "as paid" method contributed to quality control errors in the past when anticipated payments were not made and reimbursements not reported promptly upon receipt. Under the modified "as billed" method, some deductions may be delayed, but all of the household's allowable medical expenses will eventually be deducted. The Department feels this potential delay is acceptable in light of the few households likely to be affected by it and its greater administrative simplicity and resulting lower error rate.

To be deductible, the medical care must be performed by or the drugs prescribed by a State-licensed practitioner or qualified health professional as determined by State definitions or authorities. If it is questionable whether a practitioner is licensed, the local office can contact the State medical licensing board or the county medical association for assistance. The State agency may wish to list types of licensed and qualified practitioners in the State's certification manual. If the practitioner is considered licensed or qualified by the appropriate State authority, both the practitioner's fees and any treatment or drug prescribed by the practitioner are deductible for Program purposes.

Unless otherwise specified in these regulations, medical expenses shall be treated as any other deductible expense under section 273.10(d). Those regulations disallow an expense covered by vendor payments or reimbursements, allow the expense in the month billed but disallow amounts carried forward from past billing periods, and permit households to average fluctuating and one-time expenses.

The Department is interested in receiving comments on our policies for counting medical deductions and, in particular, in receiving data that can help quantify the impacts of the alternatives described above.

In computing the medical deduction, the first $35 of medical expenses incurred each month is not deductible. Only that portion which exceeds $35 is allowed. For example, and elderly individual with $50 in monthly medical costs would receive a $15 deduction. Expenses incurred on a weekly or bi-weekly basis are converted to a monthly amount using the same conversion methods that apply to income (see § 273.10(c)). As with other expenses, medical costs may be averaged. The household may elect to have one-time only costs reported at certification deducted in a lump-sum or averaged over the certification period.

However, when a deduction is averaged over an entire certification period, households would normally get the full benefit of the deduction only if it is claimed at the beginning of their certification periods. Households that reported one-time medical expenses during the certification period—especially under the policy on handling reimbursements—would normally lose part of their deduction if it were averaged backwards as well as forwards over the entire period. For example, if a household with a six-month certification period reported a new, one-time medical bill early in the fourth month, it would lose two-thirds of its deductions—that portion assigned to the previous four months.

In order to avoid this result, the Department has provided a new procedure to deal with one-time medical expenses reported during certification periods. Under this rule, such expenses may be deducted in a lump sum or averaged forward over the balance of the certification period.

The regulations require that medical expenses, and the amount which is reimbursable, be verified at initial certification. If the monthly expense changes by $25, the expenses must be verified again at recertification, although the State agency may elect to verify medical expenses at recertification even if no change has occured. The State agency must also verify other factors relating to medical deductions at recertification, such as for whom the expense is incurred or if an expense is allowable, whenever questionable information is provided. The Department determined that verification was required due to the variability of medical expenses, the limited nature of the deduction, and the uncertain extent to which such expenses are reimbursable.

The regulations also require the household to report whenever medical expenses change by more than $25. As medical expenses are likely to vary over the certification period, the Department believes that optional reporting could result in incorrect benefit levels over the certification period. On the other hand, requiring reporting of all changes is a hardship both on the household and the State agency, given the number of times minor changes will not significantly affect levels of benefits. To balance these two factors, the same reporting requirement as for income changes is established for changes in medical expenses. The procedure is consistent with other reporting requirements, thereby making it relatively easy for the household to remember and for the State agency to administer. The State agency would act on changes in accordance with the normal timeliness standards in § 273.12.

*Shelter Expenses*

Pub. L. 96–58 also allows any household containing a member who is 60 years of age or older, or who receive SSI or Title II disability payments to deduct all shelter costs in excess of 50 percent of their adjusted income. Adjusted net income is computed by allowing all deductions, including the medical deduction. However, these households are entitled to an uncapped excess shelter expense regardless of whether or not medical costs are incurred or deducted.

While the cap is removed from shelter costs, it still applies to any dependent care costs the household may claim as necessary for a member to seek, accept,

or continue employment. For example, under existing regulations if the head of household works and pays $120 a month for child care, the household could deduct only the first $90 (the cap for the 48 States and the District of Columbia at the present time) and would not receive any deduction for shelter regardless of how much it paid. With the new legislation, if that household also contains a member who is at least 60 years old or who receive SSI or Title II disability payments, the household, while still limited to $90 for dependent care expenses, may now deduct any shelter costs in excess of 50 percent of its income.

Prior to the reinstatement of the medical deduction, the household could receive a deduction for cost of an attendant for an elderly or disabled member up to a maximum of $90, only if it permitted another household member to work. As the new medical deduction also allows for attendant care, there may be some overlap with former dependent care deductions. When attendant care costs qualify under both the medical deduction and the dependent care deduction, the State agency shall treat the cost as a medical expense.

The Department believes that most households incurring this dependent care expense will benefit more from the uncapped deduction available by categorizing it as a medical expense. The only disadvantage would be to some households paying less than $125 a month in attendant care, in that the medical deduction limits the deduction to the amount over $35, while under the dependent care deduction all costs are deductible up to a maximum of $90. We believe that few households with attendant care costs pay less than $125 per month. Moreover, it is highly unlikely that these types of households do not incur other medical expenses which would meet the $35 threshold. therefore, these households should in nearly all cases receive a larger deduction by classifying their attendant costs as a medical expense and will therefore not be penalized by this approach.

If the household furnishes the majority of an attendant's meals, an amount equivalent to the one-person coupon allotment is deducted in addition to the attendant's wages. This applies only to attendant costs deducted as medical expenses and not to dependent care costs incurred for employment reasons. We are basing this provision on the legislative histories of both the 1977 Act and of Pub. L. 96–58. The legislative history of the 1977 Act specifically prohibited in-kind payments to be included as part of the dependent care deduction. (House Report 95–464, p. 67).

However, the legislative history of Pub. L. 96–58 stated that the regulations, instructions, and policies on medical expenses issued under the 1964 Act be followed. (Conference Report, p. 8). Thus a deduction related to meals for attendents shall be available only if the attendant costs are deducted as medical expenses. Because of the limited effect and the administrative difficulty, the State agency is not required to take into account any variation in coupon allotments for purposes of the attendant meal deduction during the household's certification period. Rather any new coupon allotments would be applied at recertification, unless the State agency chose to make the change earlier.

*Implementation*

The legislation mandates the implementation of the medical and shelter deduction for the elderly and disabled on or before January 1, 1980. State agencies may elect to implement these new deductions prior to January 1, 1980.

After implementation, the State agency shall:

1. determine the eligibility of new applicants and households being recertified using the new deductions, if appropriate;

2. respond to currently certified households requesting recomputation of their benefits based on the new deductions.

State agencies may want to solicit information on medical and shelter expenses from households interviewed prior to implementation to prepare for conversion. State agencies may particularly wish to do so for households whose certification or recertification is effective the first month of implementation. The State agency shall also undertake general notification procedures including press releases, posters, and fliers to make households who are potentially eligible for the new deductions aware of the program changes. FNS will be notifying the Regional Offices and States of assistance available in preparing and distributing the notices and posters.

The regulations require the State agency to directly notify currently certified households of the availability of the new deductions. The State agency shall send the notice to all households currently on the caseload, or may restrict the notice to only those eligible for the deduction if the State agency can identify those households on the caseloads containing a member who is age 60 or older, or who receives SSI or Title II disability payments. The notice shall be sent sufficiently in advance of implementation but not later than the 15th of the month prior to the month of implementation to permit those households who wish to claim medical expenses or the new shelter deduction to do so without any delay after the effective date.

The State agency is not required to perform a desk review of all cases currently on the caseload to identify households potentially affected by the new deductions, but may do so if it desires. However, Congress clearly recognized the limited impact of desk reviews when mandating implementation time frames. In the Congressional Record of August 2, 1979, page H7067, Mr. Foley states:

> . . . no household could benefit until and after such time as it newly applied to participate or was scheduled to be certified for continued participation or sought to have its benefits recomputed in accordance with normal rules for processing changes. Thus, no State agency would be required to provide any retroactive benefits to households as they came in for scheduled continued certification or as *they requested* a review of their case. (Emphasis added)

Households must provide totally new information on medical expenses before a deduction can be calculated. Clearly desk reviews for medical expenses are pointless as the level of the deduction can only be determined through self-identification by the household. With this in mind, desk reviews for shelter expenses alone are inefficient and would duplicate efforts to process reported changes in medical expenses. In addition, the Department believes that desk reviews for conversion to the new shelter deduction would not have a major impact because many households do not have shelter expenses or have expenses within the cap. With these factors in mind, the Department has not mandated desk review conversion for this amendment.

In developing an implementation schedule, the Department sought to balance the administrative burden on State agencies with maintenance of households' rights to timely benefit from the new deduction system. Normally, the State agency is required to act on reported changes within 10 days, making the change effective for the first allotment after the 10 days. However, because many households may claim these deductions at the same time and States will need time to conduct interviews and obtain verification, for the first two months of implementation it was determined that the ten day standard was not reasonable. Thus, States may have up to 30 days to

process changes resulting from this amendment. However, the household is entitled to benefits back to the time the change would have been effective had the normal 10 day processing requirement been followed. For example, a household reports medical expenses of $75 per month on January 15. The State agency has until February 15 to act on this change and reflect it in the March allotment, but the household is entitled to lost benefits for February as under normal processing rules its February allotment would have been increased to reflect the change. Households, of course, would not be entitled to benefits prior to initial implementation. States may request an extension of up to 60 days processing time from FNS. States wishing an extension must provide adequate justification for their request. The request may be for the entire State or for particular project areas within the State.

Another special provision for implementing these regulations is also included. Required verifications of medical and shelter expenses may be postponed for the first two months of implementation. Verification must be provided prior to the third issuance, however, or the allotment level reverts to the amount in effect prior to the additional deductions. This will give the State agency more time to actually respond to inquiries and to process changes without having to obtain verification.

A household shall be entitled to lost benefits only if the State agency fails to take timely action on information reported by the household following implementation. For example, if a household responds to the State agency's notice and reports deductible medical expenses in early February, it will not be entitled to claim lost benefits for January or February even if its medical expenses were the same. However, if the State agency fails to make the change effective for March, the household is entitled to lost benefits for March. Similarly, if a new applicant or a household being recertified does not receive a medical or shelter deduction to which it is entitled under Pub. L. 96–58 after January 1, 1980, the household is entitled to retroactive benefits beginning in the month of application.

Because this new deduction is being implemented in the middle of a quality control sample period, the Department has determined that the State agency shall not be held accountable for errors resulting from the misapplication of these new deductions in the cumulative allotment error rate for the balance of the period. Deviations will be noted but not counted toward the cumulative allotment error rate. However, starting with the next full quality control review period of April–September 1980, such errors will be included in the cumulative allotment error rate.

Normally, the State agency can offset any outstanding claim against lost benefits. However, the benefits restored under this amendment are analogous to the benefits provided retroactive to the first of the month of application. Therefore, under this amendment, benefits restored because of the extended period for processing changes are not subject to off-setting.

Therefore Parts 272 and 273 are amended as follows:

1. A new subparagraph (7) is added to § 272.1(g) as follows:

**§ 272.1 General terms and conditions.**

* * * * *

(g) *Implementation.* * * *

* * * * *

(7) *Amendment.* (i) State agencies shall implement the program changes required by amendment for all new applications and recertifications no later than January 1, 1980. Currently eligible households shall be converted at recertification or when they request conversion to the new deduction system by responding to the notice required in paragraph (g)(7)(iii) of this section or by otherwise requesting recomputation.

(ii) State agencies may but are not required to convert the current caseload to the shelter deduction system provided for in § 273.9(d)(5) through desk reviews or by computer search. State agencies are encouraged to convert eligible households to the new shelter deduction as soon as possible to allow these households to benefit during the winter months.

(iii) Notices explaining the changes and their applicability shall be available at all food stamp certification offices and shall also be mailed or otherwise provided individually to all currently certified households at least once prior to implementation. At a minimum, these notices shall be distributed in the month prior to implementation either with the ATP card or separately but no later than the 15th of the month. The notice shall advise the household of the availability of the new deductions and the procedures for reporting medical and shelter expenses. If the State agency can identify those households to which this amendment would apply, only these households need to receive the notice.

(iv) Fliers advising of the changes contained in this amendment shall be made available to public and general assistance offices, local Social Security offices, and any interested organizations, particularly those dealing with the elderly or disabled or those places where the elderly or disabled congregate, such as housing units. Also, posters explaining the changes shall be displayed in food stamp certification offices and shall be made available to public and general assistance offices, local Social Security offices and any other interested groups. State agencies shall notify all organizations on its outreach contact list of the changes and of the availability of posters and fliers. State agencies shall issue press releases to the news media advising of the impending program changes.

(v) For the first two months of implementation, State agencies shall have up to 30 days to process changes in medical and shelter costs reported in conjunction with this amendment. The change shall be effective for the first issuance following that 30-day period with restoration of lost benefits to the point at which the change would normally become effective under § 273.12. The State agency may request an extension of processing time of up to 60 days to act on these changes. The State agency shall submit appropriate documentation to FNS for the State or any part of the State for which such an extension is requested. After the first two months the State agency shall act on these changes in accordance with the normal processing standards in § 273.12(c). For changes reported during a period of two months following a State agency's implementation of this amendment, verification of shelter and medical expenses required by § 273.2(f) must be obtained prior to the issuance of the third normal monthly allotment after the change is reported. If the household does not provide verification, the household's benefits will revert to the original level. State agencies are encouraged to complete such verification and, if needed, conduct an interview prior to processing the change. After this initial period, State agencies will verify these expenses in accordance with the normal timeliness standards.

(vi) Medical expenses shall be subject to the same rounding procedures used for shelter expenses in § 273.10(e)(1)(ii). This procedure shall be in effect until implementation of amendments to § 273.10(e)(1)(ii).

(vii) No household shall be entitled to restorattion of lost benefits under this amendment for any period prior to the time the State agency has implemented its provisions. For the initial months after implementation, during which the longer processing time allowed under this amendment is in effect, a household shall be entitled to restoraion of lost

benefits back to the month the change would have become effective under the normal processing standards in § 273.12(c). After this initial period, no household shall be entitled to restoration of lost benefits unless the State agency does not act on reported changes in accordance with the timeliness standards in § 273.12(c) or the household is otherwise entitled under the provisions of § 273.17.

(viii) Implementation of these program changes falls in the last three months of the October 1979 to March 1980 reporting period for quality control. For the months of January, February and March 1980, all cases in which a household member is either 60 years of age or over, receives SSI, or disability benefits under title II of the Social Security Act will be subject to standard quality control review procedures, except that any varying information regarding medical deductions and/or shelter deductions in excess of the cap found in the review shall be disregarded in determining errors. Such information shall be noted on the Face Sheet of Form FNS–245 under Part VII, Discrepancies and Other Information and reported to the State agency for appropriate action on an individual case basis. Starting with the April–September 1980 reporting period, when the reviewer detects a variance in the medical deduction and/or the shelter deduction in excess of the cap, and these expenses were reported at application, recertification or during the certification period, the reviewer shall handle the variance like any other QC variance as identified in § 275.12 of the Performance Reporting System regulations.

* * * * *

2. In § 273.2 a new paragraph (f)(1)(iv) is added and paragraphs (f)(9)(i) and (ii) are revised as follows:

**§ 273.2 Application processing.**

* * * * *

(f) *Verification.* * * *

(1) *Mandatory verification.* * * *

* * * * *

(iv) *Medical expenses.* The amount of any medical expenses (including the amount of reimbursements) deductible under § 273.9(d)(3) shall be verified prior to initial certification. Verification of other factors, such as the allowability of services provided or the eligibility of the person incurring the cost, shall be required if questionable.

* * * * *

(9) *Verification subsequent to initial certification.* (i) *Recertification.* At recertification, the State agency shall verify a change in income, medical expenses or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than $25 since the last time they were verified. State agencies may verify income, actual utility expenses, or medical expenses claimed by households which are unchanged or have changed by $25 or less, provided verification is, at a minimum, required when information is questionable as defined in paragraph (f)(2) of this section. Unchanged information, other than income and medical or utility expenses, shall not be verified at recertification unless the information is questionable as defined in paragraph (f)(2) of this section.

(ii) *Changes.* Changes reported during the certification period shall be subject to the same verification procedures as apply at initial certification, except that the State agency is not required to verify income, medical expenses or actual utility expenses if the source has not changed and the amount has changed by $25 or less since the last time they were verified.

* * * * *

3. In § 273.9(d) paragraphs (3) through (7) are renumbered to (4) through (8) respectively and (d)(5) is revised. A new paragraph (d)(3) is added and newly renumbered paragraph (d)(5) is revised as follows:

**§ 273.9 Income and deductions.**

* * * * *

(d) *Income deductions.* * * *

* * * * *

(3) *Excess medical deduction.* That portion of medical expenses in excess of $35 per month, excluding special diets, incurred by any household member who is 60 years of age or over or who receives supplemental security income (SSI) benefits under title XVI of the Social Security Act or disability benefits under title II of the Social Security Act. Spouses or other persons receiving benefits as a dependent of the SSI or disability recipient are not eligible to receive this deduction but persons receiving emergency SSI benefits based on presumptive eligibility are eligible for this deduction. Allowable medical costs are:

(i) Medical and dental care including psychotherapy and rehabilitation services provided by a licensed practitioner authorized by State law or other qualified health professional.

(ii) Hospitalization or outpatient treatment, nursing care, and nursing home care including payments by the household for an individual who was a household member immediately prior to entering a hospital or nursing home provided by a facility recognized by the State.

(iii) Prescription drugs when prescribed by a licensed practitioner authorized under State law and other over-the-counter medication (including insulin) when approved by a licensed practitioner or other qualified health professional; in addition, costs of medical supplies, sick-room equipment (including rental) or other prescribed equipment are deductible;

(iv) Health and hospitalization insurance policy premiums. The costs of health and accident policies such as those payable in lump sum settlements for death or dismemberment or income maintenance policies such as those that continue mortgage or loan payments while the beneficiary is disabled are not deductible;

(v) Medicare premiums related to coverage under title XVIII of the Social Security Act; any cost-sharing or spend down expenses incurred by Medicaid recipients;

(vi) Dentures, hearing aids, and prosthetics;

(vii) Securing and maintaining a seeing eye or hearing dog including the cost of dog food and veterinarian bills;

(viii) Eye glasses prescribed by a physician skilled in eye disease or by an optometrist;

(ix) Reasonable cost of transportation and lodging to obtain medical treatment or services;

(x) Maintaining an attendant, homemaker, home health aide, or child care services, housekeeper, necessary due to age, infirmity, or illness. In addition, an amount equal to the one person coupon allotment shall be deducted if the household furnishes the majority of the attendant's meals. The allotment for this meal related deduction shall be that in effect at the time of initial certification. The State agency is only required to update the allotment amount at the next scheduled recertification; however, at their option, the State agency may do so earlier. If a household incurs attendant care costs that could qualify under both the medical deduction and dependent care deduction, the State agency shall treat the cost as a medical expense.

* * * * *

(5) *Shelter costs.* Monthly shelter costs in excess of 50 percent of the household's income after all other deductions in paragraphs (d)(1), (2), (3) and (4) of this section have been allowed. The shelter deduction alone, or in combination with the dependent care deduction in paragraph (d)(4) of this section shall not exceed $90 in the 48 contiguous States and the District of

Columbia or an amount that is specified in the appendix to this section for Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands unless the household contains a member who is age 60 or over, or who receives supplemental security income benefits (including emergency benefits based on presumptive eligibility) under title XVI or disability payments under title II of the Social Security Act. These households shall receive an excess shelter deduction for the monthly cost that exceeds 50 percent of the household's monthly income after all other applicable deductions. * * *

* * * * *

4. New sentences are added to § 273.10(d)(1)(i) and (d)(3); a new paragraph (5) is added to § 273.10(d), and §-273.10(e)(1)(i) is revised by adding a new paragraph (E), renumbering and revising subparagraphs (E) through (G) as (F) through (H) to read as follows:

**§ 273.10 Determining household eligibility and benefit levels.**

* * * * *

(d) *Determining deductions.* * * *

(1) *Disallowed expenses.*

(i) * * * However, that portion of an allowable medical expense which is not reimbursable shall be included as part of the household's medical expenses. Households entitled to the medical deduction shall have the nonreimbursable portion considered at the time the amount of reimbursement is received or can otherwise be verified. * * *

* * * * *

(3) *Averaging expenses.*

* * * Households reporting one-time only medical expenses during their certification period may elect to have a one-time deduction or to have the expense averaged over the remaining months of their certification period. Averaging would begin the month the change would become effective.

* * * * *

(5) *Coversion of deductions.* The income conversion procedures in (c)(2) of this section shall also apply to expenses billed on a weekly or biweekly basis.

* * * * *

(e) *Calculating net income and benefit levels.*

(1) *Net monthly income.*

(i) * * *

* * * * *

(E) If the household is entitled to an excess medical deduction as provided in § 273.9(d)(3), determine if total medical expenses exceed $35. If so, subtract that portion which exceeds $35.

(F) Subtract monthly dependent care expenses, if any, up to the maximum amount allowed for the area (see appendix to § 273.9). If dependent care costs equal or exceed the maximum amount allowed, the household's net monthly income has been determined unless the household is entitled to the full amount of its excess shelter deduction. If the dependent care expenses are less than the maximum, or if the household is entitled to the full amount of its excess shelter expenses (that portion over 50 percent of its monthly net income under § 273.9(d)(5)), compute the household's excess shelter expenses in accordance with paragraph (e)(1)(i)(G) of this section.

(G) Total the allowable shelter expenses to determine shelter costs. Subtract from total shelter costs 50 percent of the household's monthly income after all the above deductions have been subtracted. The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has been determined. If there is excess shelter cost, compute the shelter deduction according to paragraph (e)(1)(i)(H) of this section.

(H) Subtract the excess shelter cost up to the maximum amount allowed for the area (unless the household is entitled to the full amount of its excess shelter expenses) from the household's monthly income after all other applicable deductions. The maximum amount allowed for shelter (for those households subject to a shelter maximum) is the maximum used in paragraph (e)(1)(i)(F) of this section minus the amount of dependent care expenses, if any. Households not subject to a capped shelter expense shall have the full amount exceeding 50 percent of their net income subtracted. The household's net monthly income has been determined.

* * * * *

5. § 273.12(a)(1) is amended by adding a new subparagraph (vi) as follows:

**§ 273.12 Reporting changes.**

* * * * *

(a) *Household responsibility to report.*

* * *

(1) * * *

* * * * *

(vi) When the household's monthly medical expenses change by $25 or more.

* * * * *

Note—Food Stamp forms are being revised in accordance with the requirements of this amendment. The reporting and/or record keeping requirements anticipated in this amendment resulting from the forms revisions have been forwarded to the Office of Management and Budget for approval in accordance with the Federal Reports Act of 1942.

* * * * *

**Authority:** 91 Stat. 958 (7 U.S.C. 2011–2027).

**Note**—The reasons for the emergency nature of this rule are explained in the Preamble.

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

Further, this final is being published in accordance with emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Robert Greenstein, Administrator of the Food and Nutrition Service, that the emergency nature of this final rule warrants publication with opportunity for public comment concurrent with the effective date. An impact statement has been prepared and is available from Claire Lipsman, Director, Program Development Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

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

Dated: September 21, 1979.

**Carol Tucker Foreman.**

[FR Doc. 79–29847 Filed 9–24–79; 8:45 am]

BILLING CODE 3410–30–M

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## Agricultural Marketing Service

## 7 CFR Part 932

## Olives Grown in California; Expenses and Rate of Assessment

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This regulation authorizes expenses and the rate of assessment for the 1979–80 fiscal year for the functioning of the Olive Administrative Committee which locally administers a Federal marketing order regulating the handling of olives grown in California. The regulation enables the committee to collect assessments from olive handlers and use the funds for its expenses.

**DATES:** Effective September 1, 1979, through August 31, 1980.

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

**SUPPLEMENTARY INFORMATION:** Findings. This regulation is issued under

marketing agreement and Order No. 932 (7 CFR Part 932), regulating the handling of olives grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Olive Administrative Committee, and upon other information. It is hereby found that the expenses and rate of assessment, as hereinafter 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 of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal year shall apply to all assessable olives handled from the beginning of such year which began September 1, 1979. To enable the committee to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate are necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee. It is necessary to effectuate as specified.

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

**§ 932.214 Expenses and rate of assessment.**

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Olive Administrative Committee during the period September 1, 1979, through August 31, 1980, will amount to $1,196,128.

(b) *Rate of assessment.* The rate of assessment for that period, payable by each first handler in accordance with § 932.39, is fixed at $14.33 per ton of olives.

(c) *Reserve.* The unexpended assessment funds in excess of expenses incurred during the fiscal year ended August 31, 1979, shall be carried over as a reserve in accordance with § 932.40.

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

Dated: September 20, 1979.

**D. S. Kuryloski,**

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

[FR Doc. 79-29688 Filed 9-24-79; 8:45 am]

BILLING CODE 3410-02-M

## 7 CFR PART 991

## Expenses of the Hop Administrative Committee, and Rate of Assessment for the 1979–80 Marketing Year

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This regulation authorizes expenses and a rate of assessment for the 1979–80 marketing year, to be collected from handlers to support activities of the Committee which locally administers the Federal marketing order covering hops of domestic production.

**DATES:** Effective August 1, 1979, through July 31, 1980.

**FOR FURTHER INFORMATION CONTACT:** William J. Higgins (202) 447–5053.

**SUPPLEMENTARY INFORMATION:** *Findings.* Pursuant to Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Committee, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter 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 order requires that the rate of assessment for a particular marketing year shall apply to all assessable hops handled from the beginning of such year which began August 1, 1979. To enable the Committee to meet marketing year obligations, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the Committee. To effectuate the declared purposes of the act, it is necessary 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 comments. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from William J. Higgins (202) 447–5053.

**§ 991.314 Expenses and rate of assessment.**

(a) Expenses that are reasonable and likely to be incurred by the Hop Administrative Committee during the 1979–80 marketing year, will amount to $214,590.

(b) The rate of assessment for said year payable by each handler in accordance with § 991.56 is fixed at 0.4 cent per pound of salable hops.

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

Dated: September 19, 1979.

**D. S. Kuryloski,**

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 79-29689 Filed 9-24-79; 8:45 am]

BILLING CODE 3410-02-M

## Commodity Credit Corporation

## 7 CFR Part 1438

## 1979 Gum Naval Stores Loan Program

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule provides the Commodity Credit Corporation's (CCC) determinations and regulations concerning a loan program for the 1979-crop gum naval stores, which is authorized by the Agricultural Act of 1949, as amended. The loan program stabilizes market prices and protects producers, processors, and consumers. The program enables producers to obtain price support on 1979-crop gum naval stores.

**EFFECTIVE DATE:** September 25, 1979.

**ADDRESS:** Producer Association Division, Agricultural Stabilization and Conservation Service, P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013.

**FOR FURTHER INFORMATION CONTACT:** Dallas Smith, ASCS (202) 447–5988.

**SUPPLEMENTARY INFORMATION:** On March 6, 1979, CCC published a notice in the **Federal Register** (44 FR 12199) that CCC proposed to make determinations and issue regulations concerning a loan program for 1979-crop gum naval stores. No purchase program was under

consideration. All comments received from the American Turpentine Farmers Association and producers were favorable.

Final Rule

Accordingly, the regulations appearing in this subpart, which were published at 43 FR 4865, and the title of the subpart, are revised to read as follows, effective as to 1979-crop gum naval stores. The material previously appearing in this subpart remains in full force and effect as to the crop years to which it was applicable.

**Subpart—1979 Gum Naval Stores Loan Program**

Sec.

1438.1636 General statement and administration.
1438.1637 Definitions.
1438.1638 Loan to ATFA.
1438.1639 Advances to producers.
1438.1640 Rate of advance to producers.
1438.1641 Maturity of loan.
1438.1642 Redemption by ATFA.
1438.1643 Net gains.
1438.1644 Right of CCC upon maturity.
1438.1645 Personal liability.

Authority: Sec. 4(d), 62 Stat. 1070 (15 U.S.C. 714B); sec. 5(a), 62 Stat. 1072 (15 U.S.C. 714c), and secs. 301, 401, 63 Stat. 1053, 1054 (7 U.S.C. 1421, 1447).

## Subpart—1979 Gum Naval Stores Loan Program

### § 1438.1636 General statement and administrations.

CCC will make loans available to producers of gum naval stores during the calendar year 1979 through the American Turpentine Farmers Association (herein referred to as ATFA), under the terms and conditions described in these regulations. The Producer Associations Division, ASCS, will supervise the administration of the program.

### § 1458.1637 Definitions.

(a) "Eligible producer" means, a producer who: (1) Is a member of ATFA in good standing under membership requirements approved by CCC (no producer who is otherwise eligible may be excluded from membership in ATFA), (2) is a participant in the Naval Stores Conservation Program for 1979 or otherwise follows one or more forestry conservation practices established by State and Federal Forestry services, as determined by ATFA, (3) has made satisfactory arrangements to pay an indebtedness to the U.S. Department of Agriculture or any of its agencies, as evidenced by the debt records maintained by the Agricultural Stabilization and Conservation County Committees of the U.S. Department of Agriculture, and (4) has executed, and has not breached their obligations under, the Producer's Marketing Agreement (ATFA Form 1–1979), or any other similar agreement.

(b) "Eligible naval stores" means eligible rosin and rosin content in eligible oleoresin.

(c) "Eligible oleoresin" means oleoresin (1) which was produced in 1979 in the United States by eligible producers, (2) which is free and clear from all liens and encumberances, (3) the rosin content in which has not been previously pledged for a loan under this or any similar program, and in which the beneficial interest is and always has been in the producer, and (4) which will yield rosin of the grades and quality prescribed in paragraph (d) of this section.

(d) "Eligible rosin" means gum rosin which (1) was processed by Olustee or similar method from eligible oleoresin, (2) grades "K" or better, (3) is free and clear from all liens and encumbrances, (4) has not previously been pledged for a loan under this or any similar program, and in which the beneficial interest is and always has been in the producer: *Provided,* That, when a producer's eligible oleoresin was commingled in the processing operation with oleoresin produced in the United States by other producers, the rosin tendered for advances by the producer, as representing the processed equivalent of their eligible oleoresin, will be deemed to be, if otherwise eligible, rosin produced by such producer, (5) is packed to a net weight of 517 pounds, in eligible metal drums, (6) is transparent, (7) is free from visible foreign materials and contains no extraneous matter resulting from chemical or other treatment of the rosin, or of the oleoresin or the trees from which it came, and (8) conforms as to softening point to not less than Federal Specifications LLL–R–626b, to wit: 158° Fahrenheit (American Society for Testing Materials No. E–28–67). Rosin must be federally graded, inspected and weighed or the weights checked by Federal Inspectors employed or licensed by CCC.

(e) "Eligible metal drums" means drums conforming to the specifications for metal drums approved by CCC, obtainable from and on file in the office of ATFA.

### § 1438.1638 Loan to ATFA.

Under a Loan Agreement, CCC will make a loan to ATFA which will enable ATFA to make loan advances to eligible producers on eligible naval stores. As security for such loan, ATFA will pledge such naval stores to CCC; CCC has the right to establish a maximum aggregate disbursement at any time upon written notice to ATFA, but no such limitation shall apply with respect to naval stores tendered to ATFA by producers prior to such notice. The loan will be in an amount equal to (a) the amount of the loan advances made by ATFA to producers, except that the loan will be made only on full drums of eligible naval stores, (b) the administrative and operating expenses, approved by CCC, incurred by ATFA in making advances available to producers, and in the handling, preservation, and redemption of pledged naval stores, and (c) storage charges or other charges on pledged naval stores up to the time of aquisition of title thereto by CCC. The loan by CCC to ATFA shall bear interest at the rate announced by CCC for 1979 crops.

### § 1438.1639 Advances to producers.

ATFA will make advances to eligible producers on eligible naval stores only when such naval stores have been (a) processed (except where CCC and ATFA determine that unprocessed rosin content in oleoresin may be offered for advance), (b) placed in storage in the custody of an approved warehouseman who has entered into and is fully complying with a Warehouse Agreement (ATFA Form 2–1975) with ATFA, or in the custody of ATFA acting under a Storage Agreement with CCC, and (c) offered for an Advance on a Producer's Offer (ATFA Form 4), the date of which, unless a first offer and dated not later than September 1, 1979, shall be not later than thirty days from the date of delivery of eligible oleoresin to a processor, but in no event later than December 31, 1979, by the producer of the oleoresin, the rosin content of which or processed rosin from which has been so placed in storage. No warehouseman will be authorized to store pledged unprocessed rosin except upon approval by CCC of ATFA's written recommendation therefor and written demonstration by ATFA that there exists an immediate and substantial need for such storage. If there are any liens or encumbrances on the naval stores offered for advanced, proper waivers are required on a Lienholder's Waiver and Agreement (ATFA Form 3). All processing charges, including the cost of eligible metal drums for rosin, and storage and other warehouse charges to the date of tender for advance, will be borne by the producer.

### § 1438.1640 Rate of advance to producers.

ATFA will make advances to eligible producers on eligible rosin or rosin content only, based on the support level

of $70.00 per standard barrel (435 lbs. net weight each) of oleoresin (crude pine gum), processed basis. Although no advance is made on turpentine, an allowance is made for the estimated 1979 market value of the turpentine content in a barrel of oleoresin in determining the advance rate for rosin or rosin content. The loan rates on rosin are $23.75 for grade WG, $24.50 for grades X and WW, $23.35 for Grade N, $22.95 for Grade M, and $22.50 for Grade K, per hundred pounds net, packed in eligible metal drums. CCC reserves the right to reduce rosin loan rates, if the actual turpentine market price during 1979, when added to such rosin loan rates, results in a support level for crude pine gum in excess of 90 percent of parity. Also, CCC may increase or decrease grade premiums and discounts whenever market conditions warrant. ATFA will make advances to any eligible producer on the basis of the applicable advance rates in effect on the date of the applicable Producer's Offer.

**§ 1438.1641 Maturity of loan.**

The loan made by CCC to ATFA will be due and payable upon demand.

**§ 1438.1642 Redemption by ATFA.**

ATFA's right to redeem naval stores pledged to ATFA and to CCC shall be subject to the terms and conditions of the Loan Agreement and any amendments thereto. Redemption shall be made upon payment of the redemption cost. The redemption cost will be determined by CCC and will be the amount outstanding under the Loan Agreement, including any unpaid accrued expenses and charges, plus interest applied ratably to the naval stores to be redeemed. Any naval stores redeemed will not be thereafter eligible for loan.

**§ 1438.1643 Net gains.**

ATFA will disburse in cash on a fair and equitable basis to participating producers all net gains, less cost of disbursement, resulting from ATFA's sale of redeemed naval stores, unless a disposition other than cash disbursement has been approved by CCC. For example, when net gains are insufficient to justify disbursement expense, ATFA may upon request to an approval of CCC, utilize such net gains for and in behalf of all of its producer members.

**§ 1438.1644 Right of CCC upon maturity.**

Upon maturity and nonpayment of the loan, CCC will take title to any unredeemed naval stores, without a sale thereof, and CCC will have no obligation to pay or account to ATFA for any market value which such naval stores may have in excess of the amount of the loan, plus interest and charges.

**§ 1438.1645 Personal liability.**

Any fraudulent representation by ATFA or the producer in the program documents will render ATFA or the producer subject to criminal prosecution under applicable law, and personally liable for the amount by which the proceeds received upon the disposition of the naval stores involved are less than the amount of indebtedness incurred by ATFA with respect to such naval stores.

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 Dallas Smith, ASCS (202) 447–5988.

Signed at Washington, D.C., on September 18, 1979.

**John W. Goodwin,**

*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 79–29686 Filed 9–24–79; 8:45 am]

**BILLING CODE 3410–05–M**

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 240 and 249

**[Release No. 34–16211]**

### Suspension of Duty To File Reports Upon Termination of Registration

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rules.

**SUMMARY:** The Commission announces the effectiveness of a new rule suspending an issuer's duty to file certain reports as to a class of securities pursuant to Section 15(d) of the Securities Exchange Act of 1934 (the "exchange Act") for the balance of the issuer's fiscal year if the registration of such class is terminated under Section 12(d) or 12(g)(4) of the Exchange Act. The Commission is also announcing at this time the effectiveness of related amendments to existing Rule 12g–4 and to Form 12g–4/15d–6. The new rule and rule and form amendments had been conditionally adopted by the Commission on August 2, 1979 in Securities Exchange Act Release No. 16078 (44 FR 46447).

**EFFECTIVE DATE:** September 17, 1979.

**FOR FURTHER INFORMATION CONTACT:** John J. Heneghan (202–272–2574), Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission today announced the effectiveness of a new Rule 12h–4 (17 CFR 240.12h–4) under the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq. (1976)]. Such rule will immediately suspend an issuer's duty to file the reports required by Section 13(a) of the Exchange Act as to any class of securities pursuant to Section 15(d) of the Exchange Act for the balance of the issuer's fiscal year upon the deregistration of that class of securities pursuant to Section 12(d) of the Exchange Act or the filing of a certification on Form 12g–4/15d–6 with respect to that class. If, at the beginning of the issuer's next fiscal year, the securities of such class are held of record by less than 300 persons, the duty to file all reports required by Section 13 of the Exchange Act shall be suspended pursuant to Section 15(d) of the Exchange Act. as is now the case, this suspension shall continue automatically for each subsequent fiscal year if at the beginning of such year the securities of such class are held of record by less than 300 persons. It should be noted that if the certification on Form 12g–4/15d–6 is subsequently withdrawn or denied the issuer shall, within 60 days after such withdrawal or denial, file the reports which would have been required absent the suspension.

The Commission today also announced the effectiveness of amendments to Rule 12g–4 under the Exchange Act and to Form 12g–4/15d–6 thereunder. The amendment to Rule 12g–4 suspends an issuer's duty to file the reports required by Section 13(a) of the Exchange Act immediately upon the filing of the certification on Form 12g–4/15d–6. The remaining obligations imposed by Section 13 are suspended 90 days after certification. As with the new Rule 12h–4, if the certification is subsequently withdrawn or denied the reports must be filed within 60 days. Form 12g–4/15d–6 is being amended to reflect the new rule and the amendments to Rule 12g–4.

On August 2, 1979, the Commission had conditionally adopted new Rule 12h–4 and the related rule amendments. Interested persons were to have until September 7, 1979 to comment upon such rules. The Commission received only one letter of comment and it was not adverse to the final adoption of the

rules. Therefore, such rules are finally adopted, effective September 17, 1979. The text of the new rule and amendments appear in the August 2, 1979 release.

**Statutory Authority**

Rule 12h–4 is promulgated and Rule 12g–4 and Form 12g–4/15d–6 are amended pursuant to sections 12(h), 12(g)(4), 13, 15(d) and 23(a) of the Securities Exchange Act of 1934.

(Secs. 12(g)(4), 12(h), 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901, sec. 203(a), 49 Stat. 704; secs. 3, 8, 49 Stat. 1377, 1379; secs. 3, 4, 6, 78 Stat. 565–568, 569, 570–574; sec. 2, 82 Stat. 454; secs. 1, 2, 84 Stat. 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57 secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 781(g)(4), 781(h), 78m, 78o(d), 78w(a))

By the Commission.

Shirley E. Hollis,

*Assistant Secretary.*

September 18, 1979.

[FR Doc. 79–29662 Filed 9–24–79; 8:45 am]

BILLING CODE 8010–01–M

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## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### 21 CFR Parts 369 and 429

**[Docket No. 78N–0181]**

## Discontinuance of Certification of all 80-Unit Insulin Products

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** This document amends the regulations to discontinue the certification of all 80-unit (U–80) insulin products. This action is being taken to reduce the potential for patient error that results from having insulin available in two different high concentrations.

**EFFECTIVE DATE:** March 24, 1980.

**FOR FURTHER INFORMATION CONTACT:** Marc H. Hoffman, 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 the Federal Register of July 28, 1978 (43 FR 32821), the Food and Drug Administration (FDA) proposed to discontinue the certification of all 80-unit (U–80) insulin products, both regular and modified, that are available over-the-counter in the United States. Interested persons were given 120 days in which to submit written comments. Although the basic purpose of that document was to propose stopping the certification of U–80 insulin, it also invited comments on the need for retaining a low-potency insulin product. In fact, many of the respondents only discussed the latter issue. Only those comments about U–80 insulin were considered in preparing this rule. The comments on low-potency insulin are still being evaluated and will be discussed in a future **Federal Register** notice, if the agency decides some action is needed.

The agency received 519 comments from the public, health professionals, and government agencies on the proposed regulation to discontinue the certification of U–80 insulins. Based on its evaluation of these comments and on further consideration of the issues, FDA has concluded that certification of U–80 insulin products should be discontinued. This document does not call for revoking the certification of any batches of U–80 insulin certified prior to the effective date of this final rule. Batches certified prior to that date may remain on the market until they become outdated.

A summary of the substantive comments and the agency's responses follow:

1. Several comments said that control of diabetic patients currently using U–80 insulin would be adversely affected by a change from U–80 insulin to 100-unit (U–100) insulin. Some of those who commented told of their own adverse experiences when trying to switch to U–100 insulin. Other comments questioned the reasoning behind changing a person to U–100 insulin who is doing well on U–80 insulin. One comment stated that there is a small but significant number of insulin-treated diabetics who cannot be switched from U–80 to U–100 insulin. This comment suggested that a possible explanation for this fact may be that U–100 insulin is a purer preparation, containing less extraneous proteinaceous material.

When U–100 insulin was first introduced in this country in 1973, it was of a higher purity than the 40-unit (U–40) and U–80 insulin that had been previously marketed. Because of this increased purity U–100 insulin was referred to by at least one manufacturer as of "single peak" purity. Subsequently, a monograph for insulin was added to U.S.P. XIX, to become official as of May 1, 1978. All strengths of insulin are made from master lots meeting these required compendial standards. Thus, unit for unit, all strengths of insulin currently marketed in the U.S. should, when properly formulated, be of identical purity and effect.

Any differences in effect that may have occurred between the purer insulins of today and older insulins may be related to the body's production of antibodies in response to the impurities contained in the older material. Some of the antibodies may have bound with the insulin, and caused the body to use the injected dose more slowly. A purer insulin could, on the other hand, have less binding and more immediately available insulin, which in some patients could result in low blood sugar. High blood sugar might occur later on when insulin is no longer being released from antibody complexes. One study reported that stable diabetics have higher levels of antibodies than do labile diabetics. A copy of this study (Dixon K., P. D. Exon, and J. M. Malins, "Insulin Antibodies and the Control of Diabetes," *Quarterly Journal of Medicine*, New Sines, XLIV, 176:545–553, 1975) is on public display in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen during regular business hours. The possibility that insulins of different purity have different physiological effects is largely theoretical. Although it may explain the adverse experiences some patients have had with U–100 insulin, a more likely explanation is that the adverse experiences would have occurred on U–80 or U–40 insulin, but happened coincidentally when the patient was taking U–100 insulin. The issue is academic for purposes of this document because all insulins in production today, regardless of their particular concentration, are of equal purity and should produce the same effect, unit for unit, in all patients.

2. One comment expressed concern that a change to U–100 insulin would affect a person's metabolism.

The agency knows of no reason why a change from U–80 to U–100 insulin, or any other change in the concentration of insulin, should affect metabolism. It is possible, however, that a change in concentration could affect absorption from subcutaneous tissues, although the effect would be minor.

3. One comment reported a serious condition of purpura when one individual switched from U–80 to U–100 insulin. The purpura cleared up when the individual resumed use of U–80 insulin and received lengthy treatment with prednisone. The comment said that because insulin is made from different proportions of beef and pork pancreas, the agency should require the amount of pork and beef pancreas to be standardized from batch to batch.

Although purpura can be caused by an allergic reaction to food or drugs, it should not result from a change in the concentration of insulin. Moreover, while the proportion of pork and beef pancreas used to manufacture insulin does vary from batch to batch, the agency does not believe that such changes have any causal connection with allergic reactions. If fluctuations in pork and beef content had caused the purpura, the agency believes that an allergic response to the offending antigen should have occurred at any level in any of the mixed insulins. Thus, even if every batch had a standard pork and beef content, a person allergic to pork or beef proteins would still suffer an allergic reaction, and would do so regardless of the insulin concentration. The comment is therefore rejected.

4. Several comments were concerned that, because U–100 insulin is more concentrated than U–80 insulin, it would be more difficult to measure the dose accurately. Thus, there would be a greater chance of error when administering the U–100 insulin.

It is correct that accuracy of measurement is more important with a more concentrated insulin. For example, a mistake of 0.1 milliliters (mL) with U–40 insulin is a mistake of 4 units, whereas a mistake of 0.1 mL with U–100 is a mistake of 10 units. However, it should be possible, using a reasonable level of care, to measure 0.01 mL (1 unit) accurately with the available U–100 insulin syringes, particularly with the 0.35 mL syringe made for small doses.

5. One comment said that the removal of U–80 insulin would be the first step leading to the removal of U–40 insulin. The respondent was strongly opposed to the removal of U–40 insulin.

As stated above, the agency is still evaluating the comments on the need for a low strength insulin. If, after evaluating the comments, the agency decides to terminate the certification of U–40 insulin, a notice of proposed rulemaking will be published in the **Federal Register** for public comment.

6. Most comments were in favor of discontinuing U–80 insulin for the reasons stated in the preamble to the proposal.

Although certain persons may object to changing from U–80 to U–100 insulin, the agency believes that allowing only one high insulin concentration on the market will decrease error. Further, it is estimated that U–100 insulin currently comprises about 80 percent of the insulin being marketed. Therefore, most diabetics have already been switched to U–100 insulin.

Accordingly, under the Federal Food, Drug, and Cosmetic Act (sec. 506, 55 Stat. 851 (21 U.S.C. 356)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director, Bureau of Drugs (21 CFR 5.73), Parts 369 and 429 are amended as follows:

**§ 369.21 [Amended]**

1. In Part 369, § 369.21 *Drugs; warning and caution statements required by regulations* is amended in the entry for insulin by deleting the number "80" and the commas immediately preceding and following it.

**§ 429.11 [Amended]**

2. In Part 429, § 429.11 *Labeling* is amended in paragraph (c) by deleting the number "80" and the commas immediately preceding and following it.

**§ 429.12 [Amended]**

3. Section 429.12 *Distinguishing colors on packages* is amended as follows:

a. In paragraph (a) by deleting the phrases "Green, if it contains 80 U.S.P. Units of insulin per milliliter" and "Green and gray, if it contains 80 U.S.P. Units of insulin per milliliter."

b. In paragraph (b) by deleting the phrase "Green and white, if it contains 80 U.S.P. Units of insulin per milliliter."

c. In paragraph (c) by deleting the phrase "Green and brown, if it contains 80 U.S.P. Units of insulin per milliliter."

d. In paragraph (d) by deleting the phrase "Green and blue, if it contains 80 U.S.P. Units of insulin per milliliter."

e. In paragraph (e) by deleting the phrase "Green and lavender, if it contains 80 U.S.P. Units of insulin per milliliter."

**§ 429.40 [Amended]**

4. Section 429.40 *Requests for certification; samples; storage, approvals preliminary to certification* is amended in paragraph (g)(1) by deleting the phrase "80 or" preceding the number "100" each time it appears.

*Effective date.* This regulation is effective March 24, 1980.

(Sec. 506, 55 Stat. 851 (21 U.S.C. 356))

Dated: September 17, 1979.

**J. Richard Crout,**

*Director, Bureau of Drugs.*

[FR Doc. 79-29444 Filed 9-24-79; 8:45 am]

BILLING CODE 4110-03-M

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## 21 CFR Part 540

## Penicillin Antibiotic Drugs for Animal Use; Reinstatement of Certain Provisions

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) amends the animal drug regulations to reinstate the certification provisions and tests and methods of assay for penicillin G procaine-dihydrostreptomycin sulfate in oil for intramammary use in dry cows. This action reinstates provisions that were inadvertently revoked by a previous document.

**EFFECTIVE DATE:** September 25, 1979.

**FOR FURTHER INFORMATION CONTACT:** Frank G. Pugliese, Bureau of Veterinary Medicine (HFV–234), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3460.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of May 6, 1977 (42 FR 23149), a final rule was published revoking the certification provisions for certain animal drugs which were no longer marketed. This rule revoked § 540.274e, *Procaine penicillin and streptomycin in oil; procaine penicillin and dihydrostreptomycin in oil,* an injectable drug for which certification has not been requested for many years.

Revocation of this section inadvertently removed the requirements for certification and tests and methods of assay for procaine penicillin G and dihydrostrptomycin sulfate in oil for intramammary infusion described in § 540.874e because these requirements and tests were cross-referenced to the revoked monograph.

The drug described in § 540.874e is the subject of an approved new animal drug application, NADA 55–028, held by West Chemical Products, Inc., Long Island City, NY 11101. Therefore, the Director of the Bureau of Veterinary Medicine is reinstating the provisions for certification and tests and methods of assay by amending § 540.874e to apply specifically to the drug for which this section was established.

This action reinstates provisions that were inadvertently revoked and has not involved a reevaluation of the safety and effectiveness of the original approval.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 540 is amended by revising § 540.874e (a), (b), and (c)(1) to read as follows:

**§ 540.874e Penicillin G procaine-dihydrostreptomycin sulfate for intramammary infusion (dry cows).**

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Penicillin G procaine-dihydrostreptomycin sulfate for intramammary infusion (dry cows) is penicillin G procaine and dihyrostreptomycin sulfate suspended in a peanut oil vehicle with aluminum monostearate and hydrogenated peanut oil as gelling and hardening agents. Each 10 milliliters of suspension contains penicillin G procaine equivalent to 1 million units of penicillin G and dihydrostreptomycin sulfate equivalent to 1 gram of dihydrostreptomycin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of units of penicillin G and the number of grams of dihydrostreptomycin it is represented to contain. Its moisture content is not more than 1.4 percent. The penicillin G procaine used conforms to the standards prescribed by § 440.74a(a)(1) of this chapter, except § 440.74a(a)(1) (ii), (iii), and (iv). The dihydrostreptomycin used conforms to the standards prescribed by § 444.10a(a)(1) of this chapter, except the standards for sterility, safety, pyrogens, and histamine content.

(2) *Labeling.* It shall be labeled in accordance with the requirements of paragraph (c) of this section and § 510.55 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 514.50 of this chaper, each such request shall contain:

(i) The results of tests and assays on:

(*a*) The penicillin G procaine used in making the batch for potency, moisture, pH, penicillin G content, and crystallinity.

(*b*) The dihydrostreptomycin sulfate used in making the batch for potency, loss on drying, pH, streptomycin content, and crystallinity, if it is crystalline dihydrostreptomycin.

(*c*) The batch for penicillin G content, dihydrostreptomycin content, and moisture.

(ii) Samples required:

(*a*) The penicillin G procaine used in making the batch: 5 packages, each containing approximately 500 milligrams.

(*b*) The dihydrostreptomycin sulfate used in making the batch: 6 packages, each containing approximately 500 milligrams.

(*c*) The batch: a minimum of 6 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Penicillin G content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Expel the syringe contents into a high-speed glass blender jar containing 1 milliliter of polysorbate 80 and sufficient 1-percent potassium phosphate buffer, pH 6.0 (solution 1) to give a final volume of 500 milliliters. Blend for 3 to 5 minutes. Further dilute an aliquot of this stock solution with solution 1 to the reference concentration of 1 unit of penicillin G per milliliter (estimated).

(ii) *Dihydrostreptomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: expel the syringe contents into a high-speed glass blender jar containing 1 milliliter of polysorbate 80 and sufficient 0.1 *M* potassium phosphate buffer, pH 8.0 (solution 3) to give a final volume of 500 milliliters. Blend for 3 to 5 minutes. To an aliquot of this stock solution add sufficient penicillinase to inactivate the penicillin; further dilute with solution 3 to the reference concentration of 1.0 microgram of dihydrostreptomycin per milliliter (estimated). Allow to stand ½ hour at 37° C before filling the cylinders on the plates.

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(c) *Conditions of marketing*—(1) *Specifications.* Each 10-milliliter disposable syringe contains penicillin G procaine equivalent to 1,000,000 units of penicillin G and 1 gram of dihydrostreptomycin base as dihydrostreptomycin sulfate, in a peanut oil vehicle, and conforms to the certification requirements of paragraph (a) of this section.

* * * * *

*Effective date.* This regulation becomes effective September 25, 1979.

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

Dated: September 18, 1979.

**Terence Harvey,**

*Acting Director, Bureau of Veterinary Medicine.*

[FR Doc. 79-29617 Filed 9-24-79; 8:45 am]

BILLING CODE 4110-03-M

## VETERANS ADMINISTRATION

## 38 CFR PART 1

## Part-Time Career Employment Program

**AGENCY:** Veterans Administration.

**ACTION:** Final Regulations.

**SUMMARY:** The Veterans Administration is issuing regulations to govern the operation of a part-time career employment program within the agency. The Federal Employees Part-Time Career Employment Act of 1978 requires the head of each agency to establish and maintain a part-time career employment program within the agency. These regulations will satisfy this requirement of the law.

**EFFECTIVE DATE:** September 18, 1979.

**FOR FURTHER INFORMATION CONTACT:** R. W. Hall, Recruitment and Placement Service (054C), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Telephone (202) 389-2240.

**SUPPLEMENTARY INFORMATION:** These regulations were proposed and public comments were invited on February 28, 1979 (44 FR 11245). A 30-day comment period, ending March 30, 1979, was provided. Three comments were received.

**Summary of Comments and Responses**

*Comment:* One comment requested that an equitable number of future part-time positions be set aside for minority veterans.

*Response:* While the VA is firmly committed to affirmative employment concepts, we consider setting aside positions to be filled by members of a particular group to be an unjustifiable quota system. The VA will continue to consider all qualified applicants for its part-time positions, as outlined in the regulations.

*Comment:* One comment was received suggesting that an additional criterion be used when newly vacant positions are reviewed for possible conversion from full-time to part-time. According to the suggested criterion, the potentially restrictive effect on the full-time work force of converting positions would have to be considered.

*Response:* The criteria listed are examples of those that can be used. Furthermore, there is no limit to the number or kind of criteria that may be applied in the review process. We do not believe it is necessary to add another specific criterion.

*Comment:* One comment, which strongly supported efforts to increase part-time career employment opportunities, included several thoughtful suggestions related to expanding certain sections of the regulations for the purpose of adding substantive provisions. These pertained to current and periodic surveys of all full-time positions to identify those for which conversion to part-time is feasible, in addition to reviews when positions become vacant and including an opportunity for present employees to examine their positions and express an interest in converting to part-time; to expanding the criteria for conversion-feasibility reviews to provide more specificity for guidance to managers,

including analysis to determine whether full-time positions could be splintered into two or more part-time positions; to including a requirement in the agencywide plan calling for expansion of part-time opportunities not only at entry levels, but also at mid and other levels of employment; to expanding recruitment efforts by including use of publications whose readership is comprised of various groups (e.g., handicapped individuals and women) who might benefit from increased part-time employment opportunities.

*Response:* These suggestions have merit and are geared to effective implementation of the law. Some relate to practices already in effect, while others are planned for inclusion in internal agency guidance associated with the agencywide plan to be developed. Also, in this early stage of initial implementation of the law, we believe the regulations will best serve the objectives of increased part-time career employment if they are not overly prescriptive. For these reasons, the suggested changes are not incorporated into the regulations.

The regulations are adopted as proposed.

*Approved:* September 18, 1979.

By direction of the Administrator.

**Rufus H. Wilson,**

*Deputy Administrator.*

Sections 1.891 through 1.897 and a center title are added to read as follows:

**Part-Time Career Employment Program**

Sec.

1.891 Purpose of program.
1.892 Review of positions.
1.893 Establishing and converting part-time positions.
1.894 Annual goals and timetables.
1.895 Review and evaluation.
1.896 Publicizing vacancies.
1.897 Exceptions.

## Part-Time Career Employment Program

### § 1.891 Purpose of program.

Many individuals in society possess great productive potential which goes unrealized because they cannot meet the requirements of a standard workweek. Permanent part-time employment also provides benefits to other individuals in a variety of ways, such as providing older individuals with a gradual transition into retirement, providing employment opportunities to handicapped individuals or others who requires a reduced workweek, providing parents opportunities to balance family responsibilities with the need for additional income, and assisting students who must finance their own education or vocational training. In view of this, the Veterans Administration will operate a part-time career employment program, consistent with the needs of its beneficiaries and its responsibilities.

(5 U.S.C. 3391 note)

### § 1.892 Review of positions.

Positions becoming vacant, unless excepted as provided by § 1.897, will be reviewed to determine the feasibility of converting them to part-time. Among the criteria which may be used when conducting this review are:

(a) Mission requirements.

(b) Workload.

(c) Employment ceilings and budgetary considerations.

(d) Availability of qualified applicants willing to work part time.

(e) Other criteria based on local needs and circumstances.

(5 U.S.C. 3392)

### § 1.893 Establishing and converting part-time positions.

Position management and other internal reviews may indicate that positions may be either converted from full-time or initially established as part-time positions. Criteria listed in § 1.892 may be used during these reviews. If a decision is made to convert to or to establish a part-time position, regular position management and classification procedures will be followed.

(5 U.S.C. 3392)

### § 1.894 Annual goals and timetables.

An agencywide plan for promoting part-time employment opportunities will be developed annually. This plan will establish annual goals and set interim and final deadlines for achieving these goals. This plan will be applicable throughout the agency, but may be supplemented by field stations.

(5 U.S.C. 3392)

### § 1.895 Review and evaluation.

The part-time career employment program will be reviewed through semiannual reports submitted by field stations. Regular employment reports will be used to determined levels of part-time employment. This program will also be designated an item of special interest to be reviewed during personnel management reviews.

(5 U.S.C. 3392)

### § 1.896 Publicizing vacancies

When applicants from outside the Federal service are desired, part-time vacancies may be publicized through various recruiting means, such as:

(a) Federal Job Information Centers.

(b) State Employment offices.

(c) VA Recruiting Bulletins.

(5 U.S.C. 3392)

### § 1.897 Exceptions.

The administrator of Veterans Affairs, or designees, may except positions from inclusion in this program as necessary to carry out the mission of the agency.(5 U.S.C. 3392)

[FR Doc. 79-29684 Filed 9-24-79; 8:45 am]

BILLING CODE 8320-01-M

## POSTAL SERVICE

## 39 CFR Part 601

## Procurement of Property and Services; Miscellaneous Amendments to Postal Contracting Manual

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service hereby announces numerous miscellaneous revisions of the Postal Contracting Manual. The amendments will update the manual and make minor, editorial, or technical changes.

**EFFECTIVE DATE:** July 9, 1979.

**FOR FURTHER INFORMATION CONTACT:** William J. Jones, (202) 245-4603.

**SUPPLEMENTARY INFORMATION:** The Postal Contracting Manual, which has been incorporated by reference in the **Federal Register** (see 39 CFR 601.100), has been amended by the issuance of Transmittal Letter 28, dated June 9, 1979.

In accordance with 39 CFR 601.105 notice of these changes is hereby published in the **Federal Register** as an amendment to that section and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the basic Manual will receive these amendments from the Government Printing Office. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

Description of these amendments to the Postal Contracting Manual follows:

1. Sections 1, 7, 8, 9, 16, 18, and 19 have been revised to the extent necessary to bring them into agreement with the June, 1978 revision to Form 7332, General Provisions for Fixed-Price Contracts (Supplies and Services or Research and Development). Section 16 has also been revised to include the June, 1978 revision to Form 7332.

2. Sections 1, 7, 18, and 19 have been revised to incorporate wage and price standards for Postal Service contracts. A program of voluntary wage and price standards was announced by President Carter on October 25, 1978. The President directed that Federal procurement of supplies and services be conducted so as to recognize anti-inflationary efforts and to benefit Federal Contracting by doing business

with those firms which limit wage and price increases. The Postal Service is voluntarily implementing procedures similar to those established for executive agencies to assist the President's anti-inflation program.

3. The remainder of the changes are minor, editorial, or technical in nature.

In consideration of the foregoing, 39 CFR 601.105 is amended by adding the following to § 601.105:

**§ 601.105 Amendments to the Postal Contracting Manual.**

* * * * *

**Amendments to Postal Contracting Manual**

| Transmittal letter | Dated | Federal Register publication |
|---|---|---|
| * * * * * | | |
| 28 | June 9, 1979 | 44 FR—— |

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411, 2008)

**W. Allen Sanders,**

*Acting Deputy General Counsel.*

[FR Doc. 79-29713 Filed 9-24-79; 8:45 am]

BILLING CODE 7710-12-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 60

[FRL 1327-8]

### Standards of Performance for New Stationary Sources; General Provisions; Definitions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final Rule.

**SUMMARY:** This document makes some editorial changes and rearranges the definitions alphabetically in Subpart A—General Provisions of 40 CFR Part 60. An alphabetical list of definitions will be easier to update and to use.

**EFFECTIVE DATE:** September 25, 1979.

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

**SUPPLEMENTARY INFORMATION:** The "Definitions" section (§ 60.2) of the General Provisions of 40 CFR Part 60 now lists 28 definitions by paragraph designations. Due to the anticipated increase in the number of definitions to be added to the General Provisions in the future, continued use of the present system of adding definitions by paragraph designations at the end of the list could become administratively cumbersome and could make the list difficult to use. Therefore, paragraph designations are being eliminated and the definitions are rearranged alphabetically. New definitions will be added to § 60.2 of the General Provisions in alphabetical order automatically.

Since this rule simply reorganizes existing provisions and has no regulatory impact, it is not subject to the procedural requirements of Executive Order 12044.

Dated: September 19, 1979.

**Edward F. Tuerk,**

*Acting Assistant Administrator for Air, Noise, and Radiation.*

40 CFR 60.2 is amended by removing all paragraph designations and by rearranging the definitions in alphabetical order as follows:

**§ 60.2 Definitions.**

The terms used in this part are defined in the Act or in this section as follows:

"Act" means the Clean Air Act (42 U.S.C. 1857 et seq., as amended by Pub. L. 91-604, 84 Stat. 1676).

"Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

"Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.

"Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the Administrator's satisfaction to, in specific cases, produce results adequate for his determination of compliance.

"Capital expenditure" means an expenditure for a physical or operational change to an existing facility which exceeds the product of the applicable "annual asset guideline repair allowance percentage" specified in the latest edition of Internal Revenue Service Publication 534 and the existing facility's basis, as defined by section 1012 of the Internal Revenue Code.

"Commenced" means, with respect to the definition of "new source" in section 111(a)(2) of the Act, that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

"Construction" means fabrication, erection, or installation of an affected facility.

"Continuous monitoring system" means the total equipment, required under the emission monitoring sections in applicable subparts, used to sample and condition (if applicable), to analyze, and to provide a permanent record of emissions or process parameters.

"Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the Administrator's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

"Existing facility" means, with reference to a stationary source, any apparatus of the type for which a standard is promulgated in this part, and the construction or modification of which was commenced before the date of proposal of that standard; or any apparatus which could be altered in such a way as to be of that type.

"Isokinetic sampling" means sampling in which the linear velocity of the gas entering the sampling nozzle is equal to that of the undisturbed gas stream at the sample point.

"Malfunction" means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

"Modification" means any physical change in, or change in the method of operation of, an existing facility which increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or which results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted.

"Monitoring device" means the total equipment, required under the monitoring of operations sections in applicable subparts, used to measure and record (if applicable) process parameters.

"Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in this part.

"One-hour period" means any 60-minute period commencing on the hour.

"Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

"Owner or operator" means any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source of which an affected facility is a part.

"Particulate matter" means any finely divided solid or liquid material, other than uncombined water, as measured by the reference methods specified under each applicable subpart, or an equivalent or alternative method.

"Proportional sampling" means sampling at a rate that produces a constant ration of sampling rate to stack gas flow rate.

"Reference method" means any method of sampling and analyzing for an air pollutant as described in Appendix A to this part.

"Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

"Shutdown" means the cessation of operation of an affected facility for any purpose.

"Six-minute period" means any one of the 10 equal parts of a one-hour period.

"Standard" means a standard of performance proposed or promulgated under this part.

"Standard conditions" means a temperature of 293 K (68°F) and a pressure of 101.3 kilopascals (29.92 in Hg).

"Startup" means the setting in operation of an affected facility for any purpose.

"Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant and which contains any one or combination of the following:

(a) Affected facilities.

(b) Existing facilities.

(c) Facilities of the type for which no standards have been promulgated in this part.

(Sec. 111, 301(a), Clean Air Act as amended (42 U.S.C. 7411 and 7601(a))

[FR Doc. 79-29769 Filed 9-24-79; 8:45 am]

BILLING CODE 6560-01-M

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## 40 CFR Part 61

[FRL 1328-1]

## National Emission Standards for Hazardous Air Pollutants; General Provisions; Definitions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final Rule.

**SUMMARY:** This document makes some editorial changes and rearranges the definitions alphabetically in Subpart A—General Provisions of 40 CFR Part 61. An alphabetical list of definitions will be easier to update and to use.

**EFFECTIVE DATE:** September 25, 1979.

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

**SUPPLEMENTARY INFORMATION:** The "Definitions" section (§ 61.02) of the General Provisions of 40 CFR Part 61 now lists definitions by paragraph designations. Due to the anticipated increase in the number of definitions to be added to the General Provisions in the future, continued use of the present system of adding definitions by paragraph designations at the end of the list could become administratively cumbersome and could make the list difficult to use. Therefore, paragraph designations are being eliminated and the definitions are rearranged alphabetically. New definitions will be added to § 61.02 of the General Provisions in alphabetical order automatically.

Since this rule simply reorganizes existing provisions and has no regulatory impact, it is not subject to the procedural requirements of Executive Order 12044.

Dated: September 19, 1979.

**Edward F. Tuerk,**

*Acting Assistant Administrator for Air, Noise, and Radiation.*

40 CFR 61.02 is amended by removing all paragraph designations and by rearranging the definitions in alphabetical order as follows:

### § 61.02 Definitions.

The terms used in this part are defined in the Act or in this section as follows:

"Act" means the Clean Air Act (42 U.S.C. 1857 et seq.).

"Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

"Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the Administrator's satisfaction to, in specific cases, produce results adequate for his determination of compliance.

"Commenced" means, with respect to the definition of "new source" in section 111(a)(2) of the Act, that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

"Compliance schedule" means the date or dates by which a source or category of sources is required to comply with the standards of this part and with any steps toward such compliance which are set forth in a waiver of compliance under § 61.11.

"Construction" means fabrication, erection, or installation of an affected facility.

"Effective date" is the date of promulgation in the **Federal Register** of an applicable standard or other regulation under this part.

"Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the Administrator's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

"Existing source" means any stationary source which is not a new source.

"Modification" means any physical change in, or change in the method of operation of, a stationary source which increases the amount of any hazardous air pollutant emitted by such source or which results in the emission of any hazardous air pollutant not previously emitted, except that:

(a) Routine maintenance, repair, and replacement shall not be considered physical changes, and

(b) The following shall not be considered a change in the method of operation:

(1) An increase in the production rate, if such increase does not exceed the operating design capacity of the stationary source;

(2) An increase in hours of operation.

"New source" means any stationary source, the construction or modification of which is commenced after the publication in the **Federal Register** of proposed national emission standards for hazardous air pollutants which will be applicable to such source.

"Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

"Reference method" means any method of sampling and analyzing for an air pollutant, as described in Appendix B to this part.

"Standard" means a national emission standard for a hazardous air pollutant proposed or promulgated under this part.

"Startup" means the setting in operation of a stationary source for any purpose.

"Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant which has been designated as hazardous by the Administrator.

(Sec. 112, 301(a), Clean Air Act as amended (42 U.S.C. 7412 and 7601(a)))

[FR Doc. 79-29768 Filed 9-24-79; 8:45 am]

BILLING CODE 6560-01-M

## LEGAL SERVICES CORPORATION

### 45 CFR Part 1624

### Prohibition Against Discrimination on the Basis of Handicap

**AGENCY:** Legal Services Corporation.

**ACTION:** Final Regulation.

**SUMMARY:** This regulation implements Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 706, with regard to recipients of funds from the Legal Services Corporation. The Legal Services Corporation was created by Act of Congress, 42 U.S.C. 2996, and is entirely supported by funds provided by Congressional appropriation. The final regulation is intended to insure that federally assisted legal services programs and activities are operated without discrimination on the basis of handicap.

**EFFECTIVE DATE:** October 25, 1979.

**ADDRESS:** Legal Services Corporation, 733 15th Street, N.W., Suite 700, Washington, D.C. 20005.

**FOR FURTHER INFORMATION CONTACT:** Linda Perle, 202-272-4040.

**SUPPLEMENTARY INFORMATION:** Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of handicap by recipients of federal assistance. Pursuant to Executive Order 11914 (April 29, 1976) the Department of Health, Education, and Welfare was given the responsibility to coordinate the implementation of Section 504 among all federal agencies and departments that dispense federal assistance. On January 13, 1978, H.E.W. issued regulations that defined generally the types of practices forbidden by the Rehabilitation Act and spelled out the responsibilities of federal agencies to implement and enforce Section 504. *See* 45 CFR 85.1-85.58.

The Corporation is not a federal agency or department, and is not required by the Executive Order to issue implementation and enforcement regulations. Corporation-funded programs, however, receive federal financial assistance and are subject to the non-discrimination requirements of Section 504. In addition, the Legal Services Corporation Act requires the Corporation to "insure the maintenance of the highest quality of service * * *," 42 U.S.C. Section 2996(f)(a)(1), and "insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance * * *," 42 U.S.C. Section 2996(f)(a)(3). The Corporation maintains that discriminatory practices by legal services programs interfere directly with the ability of those programs to provide high quality legal assistance in an efficient and effective manner. The Corporation, therefore, has undertaken to ensure that its funds are not used in a manner that discriminates against the handicapped, regardless of the fact that it is not required to do so under Section 504.

A proposed version of Part 1624 was published for notice and comment in the **Federal Register** on April 16, 1979, (44 FR 22482). In response to that proposal the Corporation received comments that covered a variety of issues; often with respect to the same issue some comments suggested that the proposed regulation went too far, while others complained that it did not go far enough. Many of the issues raised by the comments were fully considered in designing the proposed regulation, and are addressed elsewhere in this commentary. In most instances, the Corporation continues in the view that the proposed regulation represented the best resolution of the conflicting viewpoints. Other comments raised issues that were not addressed previously, and some modifications have been made in the regulation to respond to those issues.

In preparing the regulation, the Corporation faced, at the outset, a general, issue concerning the extent to which it should follow the guidelines issued by the Department of Health, Education, and Welfare. *See* 45 CFR 85.1-85.58. Many commentors assumed that the H.E.W. guidelines implementing Section 504 of the Rehabilitation Act are binding on the Corporation, and there remarks are based solely on perceived variations between the proposed regulation and the guidelines. As was emphasized above, however, the Corporation is not a "federal department or agency," and is not required by the Executive Order to issue regulations that conform to the H.E.W. guidelines. However, to the extent that they were applicable to legal services program operations, the Corporation did adopt the spirit and the substance of the H.E.W. guidelines; changes were often made in the specific language of particular provisions suggested by H.E.W. where that language was unclear. Other sections of the guidelines were either inappropriate or inapplicable to legal services practice and were excluded entirely or adapted to the circumstances under which legal services programs operate. The Corporation remains committed to this approach as the best way to advance the goal of consistency among agencies and organizations that enforce Section 504, while recognizing the specific needs of legal services programs.

The remainder of this commentary summarizes and discusses the major issues faced in drafting the final regulation and raised by comments, and notes the more substantial changes made in the regulation.

*Section 1624.1—Purpose.* This section has been expanded to clarify that the authority for this regulation is premised not only on Section 504, but also on those provisions of the Legal Services Corporation Act that require the Corporation to insure that its grantees provide high quality legal assistance in an efficient and effective manner. In addition, it has been modified to make clear that by promulgation of this regulation the Corporation does not intend to imply that legal services programs are systematically engaged in discriminatory practices against the handicapped. On the contrary, legal services programs have been in the forefront of the fight to establish the rights of handicapped persons, and are generally sensitive to the special problems of handicapped clients. The regulation is designed to provide guidance and assist programs with whatever difficulties they may encounter in their efforts to incorporate handicapped persons fully into their activities.

*Section 1624.3—Definitions.* The HEW guidelines use the term "recipient" to designate the class of programs covered by the policy. Corporation regulations (45 CFR 1600.1) define "recipient" to include only those "grantees or contractors receiving financial assistance from the Corporation under Section 1006(a)(1)(A) of the Act." This definition excludes some special grantees such as the Delivery Systems Study demonstrations and the Quality Improvement Projects that receive funds for innovative or experimental programs. The HEW definition of "recipient" is much broader, and would include those special grants. Rather than using a different definition for a term

that has come to have a specific meaning in the context of Corporation regulations, the proposed regulation uses an entirely new term—legal services program—that incorporates the broader HEW definition.

One comment suggested that the regulation define "financial assistance" to clarify whether programs that receive non-monetary help from the Corporation, such as technical assistance, should be subject to the regulation. The problem is an insubstantial one, inasmuch as the Corporation provides such assistance only to its grantees and contractors. No change has been made.

Several comments suggested that the definition of "physical or mental impairment" should include the non-exhaustive illustrative list contained in the HEW guidelines. 45 CFR 85.31(b)(1). The final regulation has been modified accordingly.

*Section 1624.4—Discrimination Prohibited.* Several commentators argued that the Corporation's regulation should include all of the examples of discriminatory practices listed in the HEW guidelines. The Corporation maintains the view that many of those examples are vague and not relevant to legal services; including them could only foster uncertainty in the implementation of enforcement of the regulation. The regulation, however, does adopt the suggestion of one comment that § 1624.4(c) be modified to prohibit selection of office sites that have the purpose of discriminating against handicapped persons, even if they do not have that effect. This section relates only to the selection of general geographic areas for offices, not specific facilities which are covered by § 1624.5.

The HEW guidelines contain a provision that relates to "the existence of permissibly separate or different programs or activities." *See* 45 CFR 85.51(b)(2). The import of the provision, which is reflected in § 1624.4(b) of the regulation, is to prohibit a program from designating a specialized unit or particular office as the *sole* location for the delivery of services to handicapped persons. It is not intended to prohibit a program from setting up special units to handle only problems that relate to handicapped status or to contradict the provisions permitting a program to make only specific locations physically accessible, as long as handicapped clients have access to all of a program's specialized services and its programs and activities are accessible "when viewed in their entirety" (See § 1624.5(b)). The language of § 1624.4(b) has been redrafted to state in clear terms this intended meaning.

Many of the comments addressed § 1624.4(d) of the proposed regulation, relating to the provision of auxiliary aids to persons with sensory, manual or speaking impairments. This provision was included in recognition of the essential need for effective communication between a legal services program and its clients. Several comments complained that the provision would impose undue financial burdens on many legal services programs; others suggested that the fifteen person cut-off ignores the possibility that a small program may have a client population with a disproportionately high percentage of handicapped persons.

The provision was based on two assumptions: First, that a program with at least fifteen employees will have a sufficiently large budget to enable it to obtain access to auxiliary aids when needed without jeopardizing its other activities; second, that a program of that size will serve a sufficiently large population to have a significant number of potential clients who could benefit by the availability of the aids. Nothing in the comments has persuaded the Corporation that these assumptions are invalid. Given the Corporation's funding approach, it is unlikely that a smaller program would be faced with a large number of handicapped clients; in all events, § 1624.4(d)(2) provides flexibility to respond to such a situation should it occur.

Several comments requested that § 1624.4(d) be clarified in two additional respects: to state more clearly that programs are not required to maintain auxiliary aids on hand at all times, provided that they can be obtained as needed within a reasonable period of time; and, that programs with several offices, each employing less than fifteen persons, but a total work force of more than fifteen, are covered by § 1624.4(d)(1). The points are valid ones, and the section has been clarified accordingly. In addition, in response to another comment on § 1624.4(d)(3) "telecommunications equipment for the deaf" has been added to the list of examples of auxiliary aids.

Several comments criticized §§ 1624.4(e) and 1624.4(f) of the proposed regulation, which require that programs ensure that their communications "are available to persons with impaired vision and hearing," and that, in setting its priorities, a "program may not deny handicapped persons the opportunity to participate as members of or in the meetings or activities of any planning or advisory board or process established by or conducted by the program." The commentators argued that legal services programs should be mandated to conduct outreach and take other affirmative actions to ensure that handicapped individuals actually receive service. The Corporation maintains the view that Section 504 requires only that the services of programs as a whole be accessible to those who wish to use them. Whether to perform outreach or engage in other affirmative activities—or to make special efforts to reach certain groups—is a matter committed by the Act, 42 U.S.C. 2996f(a)(1)(C), to the priority-setting process of each program, pursuant to the procedure established by Part 1620 of the Corporation's regulations, 45 CFR 1620. In addition, the provision has been modified to clarify that programs are required to take only those steps that are "reasonable" to ensure the availability of communications. For example, under most circumstances § 1624.4(e) would not require a program to print its newsletter in braille.

*Section 1624.5—Accessibility of Legal Services.* Some comments urged the Corporation to adopt standards for accessibility of buildings established by various specialized organizations. One commentator suggested the standards issued by the United States Architectural and Transportation Barriers Compliance Board; another proposed those of the American National Standards Institute, Inc. The Corporation is not prepared to take a position on these suggestions. A better approach is for the Corporation to assemble and distribute materials and to provide programs with training to guide compliance efforts.

One comment urged that § 1624.5(b) be modified to mandate that any specialized units maintained by a program, such as a separately-housed consumer law unit, be physically accessible to handicapped persons. The regulation clearly requires that handicapped persons be able to benefit from the expertise of specialized units, and establishes a preference for methods of access that do not involve separate arrangements for the handicapped. It may well be, therefore, that the easiest way for a program to comply with § 1624.5(b) will be to make all of its facilities physically accessible. However, some flexibility is desirable, at least until programs have more experience operating under Part 1624, and some programs may find that permissible alternatives, such as home visits, delivery of services at alternate accessible sites, rearrangement or modest alterations of existing facilities,

are effective in achieving the required results.

One comment questioned whether the certification requirement of § 1624.5(c) applies generally to program accessibility, or to accessibility of physical facilities. The section expressly applies only to facility accessibility and requires no clarificaion on that point.

One comment suggested that programs should be absolutely prohibited from renting or purchasing inaccessible space in the future, and that the regulation should be more forceful in expressing that policy. The Corporation agrees that in almost every instance programs may not rent or buy new space that is inaccessible. There may be situations, however, where it is not practicable to find accessible space, such as when the only accessible space is located well outside of the poverty community. Therefore, the provision relating to the accessibility of new space has been strengthened and now requires more detail in the certification mandated by § 1624.5(c), but the accessibility requirement is not absolute.

The first sentence of § 1624.5(d), relating to new facilities, has also been clarified to indicate that it applies only to facilities that are specifically designed or constructed for a legal services program. New facilities that are not designed or built for a program, but are purchased by that program are covered by § 1624.5(c).

Several comments argued that the regulation should set a time-table for making each program facility accessible. Most comments suggested three years from the effective date of the regulation as the outside limit. The regulation does not, however, require that each and every facility be accessible, as long as the "programs and activities, when viewed in their entirety, are readily accessible to and usable by handicapped persons," § 1624.5(b). A three-year deadline could be misleading, and create an impression that compliance with the quoted requirements could be delayed for three years. The regulation anticipates that programs will take immediate steps to comply with the requirements and provides that, by January 1, 1980, programs must evaluate their facilities, policies and practices to determine the extent to which they comply with the regulation. They must also consider the costs associated with changes that would be necessary if the program were voluntarily to make each of its facilities accessible, even though not required to do so under the regulation. The program must make public the plans it has, including a time-table, for correcting any deficiencies (§ 1624.7). This provision is more likely to produce rapid results than three-year grace period proposed by the comments, and has not been changed.

*Section 1624.6—Employment.* Section 1624.6 of the regulation includes the general prohibition against discrimination in employment contained in the H.E.W. guidelines. Also included are provisions of the guidelines that list activities to which the prohibition applies, including such activities as recruitment, rates of pay, fringe benefits, and training opportunities. One comment argued that Section 504 affects employment only in federally-funded job programs. The comment urged the Corporation to apply its regulations only when "the main purpose of the program or activity is to provide employment or when delivery of program services is affected by the recipients' employment practices." Even accepting the assumption of the comment, the Corporation has consistently maintained the view that a legal services program's employment practices do affect its ability to serve its client community. Further, authority for the promulgation of the regulation is based not simply on Section 504, but on provisions of the Legal Services Corporation Act as well. The regulation continues to contain employment requirements for Corporation grantees.

The same comment urged that the Corporation delay final publication of its regulation until certain conflicts between the HEW guidelines and regulations issued by the Department of Labor are resolved. Because Executive Order 11914 designated HEW as the coordinating agency for Section 504 among federal agencies, to the extent that the Corporation chooses to follow any federal guidelines for its own regulations, it should adhere to those issued by HEW In addition, because HEW provides supplemental funding to a large number of Corporation grantees, the Corporation should attempt to avoid unnecessary burdens on those programs by conforming our regulation to the HEW requirements as much as possible.

Section 1624.6(d) of the regulations prohibits contractual or other relationships with agencies or organizations such as unions or employment agencies that have "the effect of subjecting qualified handicapped applicants or employees to discrimination * * *." The Language of the HEW provision on which this section is based has been clarified to reflect that it applies to discriminatory practices by outside individuals, agencies or organizations, and does not prohibit programs, for example, from refusing to hire handicapped applicants who are not union members or who are not referred by an employment agency with which the program has an exclusive contract, provided that the union or employment agency does not discriminate.

Several commentators argued that § 1624.6(e) of the regulation should adopt the approach of the HEW guidelines, and expressly place on legal services programs the burden of proving that accommodation to the limitations of handicapped job applicants would be unduly burdensome. The reasons advanced to support this argument are that programs have greater access to information relevant to that question, and courts are likely to follow that approach in any event. Both statements may well be true, but the regulation should not be drafted from a litigant's point of view. A program must, of course, be able to articulate persuasive reasons to support a determination that accommodation would be unreasonable. This requirement is inherent in the proposed regulation, and a "burden of proof" provision is an artificial means of reinforcing it.

Several comments suggested a need for additional definition of the phrase, "reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee," as used in § 1624.6(e). Some suggested that any accommodation that was more than *de minimis*, i.e., that imposed more than a trivial cost on a program, was unreasonable *per se*. The Corporation maintains that any accommodations that would involve substantial costs or major changes in a program are not "reasonable." Beyond that, it would be difficult and impractical to set out precise criteria for judging accommodations for particular handicaps. Such determinations must be made on a case-by-case basis, at least until there is some experience under the regulation. The factors listed in § 1624.6(e) should provide some guidance in making those determinations, but are not intended to exhaust the relevant considerations.

One comment suggested that the use of the phrase "essential functions of the job in question" in the definition of "qualified handicapped person," § 1624.3(d), should be clarified in order not to under cut the effect of the reasonable accommodation provisions. The use of the word "essential" was intended to insure only that handicapped job applicants would not be denied employment because they were incapable of performing trivial or

unnecessary aspects of the job in question.

Several comments suggested that § 1624.6(f), which prohibits the use of discriminatory employment tests or criteria, should be changed to prohibit all such tests or criteria that are not job-related. As long as employment tests or criteria are not discriminatory, the law does not require that they be job-related. The Corporation may well be without authority to impose such a requirement as a matter of policy, and certainly should not do so in the context of this regulation.

Several comments noted that the proposed regulation's reference to the circumstances under which pre-employment medical examinations or inquiries were permissible omitted HEW's provision for confidentiality of records resulting from such inquiries. The exclusion was unintentional, and the reference has been expanded to include that provisions, with a slight modification of its language to make it relevant to Corporation grantees.

One commentator argued that programs should be permitted to negotiate arrangements with handicapped job applicants to protect the programs from extraordinary medical insurance claims. The Corporation is not persuaded that this is a serious problem. It seems unlikely that an applicant who was in imminent need of major medical attention could perform the basic functions of a position. Programs may, moreover, request all new employees to take physical examinations for purposes of pre-existing condition clauses in their insurance policies, and we would expect programs to attempt to negotiate insurance coverage that would protect all of their employees.

*Section 1624.8—Enforcement.* Several commentators observed that the proposed regulation does not require programs to sign assurances of compliance with Section 504, a procedure that is mandated by the HEW guidelines. All Corporation grantees and contractors, however, sign general assurances that they will not discriminate on the basis of handicap and will comply with the Corporation's regulations. Therefore, a special assurance for Section 504 is not necessary.

## PART 1624—PROHIBITION AGAINST DISCRIMINATION ON THE BASIS OF HANDICAP

Sec.

1624.1 Purpose.
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1624.8 Enforcement.

**Authority:** 49 U.S.C. 706; 42 U.S.C. 2996f(a) (1) and (3)

### § 1624.1 Purpose.

The purpose of this part is to assist and provide guidance to legal services programs supported in whole or in part by Legal Services Corporation funds in removing any impediments that may exist to the provision of legal assistance to handicapped persons eligible for such assistance in accordance with Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794 and with Sections 1007(a) (1) and (3) of the Legal Services Corporation Act, as amended, 42 U.S.C. Sections 2996f(a) (1) and (3), with respect to the provision of services to and employment of handicapped persons.

### § 1624.2 Application.

This part applies to each legal services program receiving financial assistance from the Legal Services Corporation.

### § 1624.3 Definitions.

As used in this part, the term: (a) "Legal services program" means any recipient, as defined by § 1600.1 of these regulations, or any other public or private agency, institution, organization, or other entity, or any person to which or to whom financial assistance is extended by the Legal Services Corporation directly or through another agency, institution, organization, entity or person, including any successor, assignee, or transferee of a legal services program, but does not include the ultimate beneficiary of legal assistance;

(b) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property;

(c)(1) "Handicapped person" means any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment;

(2) As used in subparagraph (1) the phrase:

(i) "Physical or mental impairment" means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities; The phrase includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism;

(ii) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working;

(iii) "Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities;

(iv) "Is regarded as having an impairment" means (A) has a physical or mental impairment that does not substantially limit major life activities but is treated by a legal services program as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairments; or (C) has none of the impairments defined in paragraph (c)(2)(i) of this section but is treated by a legal services program as having such an impairment;

(d) "Qualified handicapped person" means: (1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question; (2) with respect to other services, a handicapped person who meets the eligibility requirements for the receipt of such services from the legal services program.

### § 1624.4 Discrimination prohibited.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination by any legal services program, directly or through any contractural or another arrangement.

(b) A legal services program may not deny a qualified handicapped person the opportunity to participate in any of its programs or activities or to receive any of its services provided at a facility on the ground that the program operates a separate or different program, activity or facility that is specifically designed to serve handicapped persons.

(c) In determining the geographic site or location of a facility, a legal services

program may not make selections that have the purpose or effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity of the legal services program.

(d)(1) A legal services program that employs a total of fifteen or more persons, regardless of whether such persons are employed at one or more locations, shall provide, when necessary, appropriate auxiliary aids to persons with impaired sensory, manual or speaking skills, in order to afford such persons an equal opportunity to benefit from the legal services program's services. A legal services program is not required to maintain such aids at all times, provided they can be obtained on reasonable notice.

(2) The Corporation may require legal services programs with fewer than fifteen employees to provide auxiliary aids where the provision of such aids would not significantly impair the ability of the legal services program to provide its services.

(3) For the purpose of §§ 1624.4(d) (1) and (2), auxiliary aids include, but are not limited to, brailled and taped material, interpreters, telecommunications equipment for the deaf, and other aids for persons with impaired hearing, speech or vision.

(e) A legal services program shall take reasonable steps to insure that communications with its applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

(f) A legal services program may not deny handicapped persons the opportunity to participate as members of or in the meetings or activities of any planning or advisory board or process established by or conducted by the legal services program, including but not limited to meetings and activities conducted in response to the requirements of Part 1620 of these regulations.

**§ 1624.5 Accessibility of legal services.**

(a) No qualified handicapped person shall, because a legal services program's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination by any legal services program.

(b) A legal services program shall conduct its programs and activities so that, when viewed in their entirety, they are readily accessible to and usable by handicapped persons. This paragraph does not necessarily require a legal services program to make each of its existing facilities or every part of an existing facility accessible to and usable by handicapped persons, or require a legal services program to make structural changes in existing facilities when other methods are effective in achieving compliance. In choosing among available methods for meeting the requirements of this paragraph, a legal services program shall give priority to those methods that offer legal services to handicapped persons in the most integrated setting appropriate.

(c) A legal services program shall, to the maximum extent feasible, insure that new facilities that it rents or purchases are accessible to handicapped persons. Prior to entering into any lease or contract for the purchase of a building, a legal services program shall submit a statement to the appropriate Regional Office certifying that the facilities covered by the lease or contract will be accessible to handicapped persons, or if the facilities will not be accessible, a detailed description of the efforts the program made to obtain accessible space, the reasons why the inaccessible facility was nevertheless selected, and the specific steps that will be taken by the legal services program to insure that its services are accessible to handicapped persons who would otherwise use that facility. After a statement certifying facility accessibility has been submitted, additional statements need not be resubmitted with respect to the same facility, unless substantial changes have been made in the facility that affect its accessibility.

(d) A legal services program shall ensure that new facilities designed or constructed for it are readily accessible to and usable by handicapped persons. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to make the altered facilities readily accessible to and usable by handicapped persons.

**§ 1624.6 Employment.**

(a) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment by any legal services program.

(b) A legal services program shall make all decisions concerning employment under any program or activity to which this part applies in a manner that insures that discrimination on the basis of handicap does not occur, and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(c) The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not adminstered by the legal services program;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(d) A legal services program may not participate in any contractual or other relationship with persons, agencies, organizations or other entities such as, but not limited to, employment and referral agencies, labor unions, organizations providing or administering fringe benefits to employees of the legal services program, and organizations providing training and apprenticeship programs, if the practices of such person, agency, organization, or other entity have the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this paragraph.

(e) A legal services program shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the accommodation would impose an undue hardship on the operation of the program.

(1) For purposes of this paragraph (e), reasonable accommodation may include (i) making facilities used by employees readily accessible to and usable by handicapped persons, and (ii) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(2) In determining whether an accommodation would impose an undue

hardship on the operation of a legal services program, factors to be considered include, but are not limited to, the overall size of the legal services program with respect to number of employees, number and type of facilities, and size of budget, and the nature and costs of the accommodation needed.

(3) A legal services program may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is a need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

(f) A legal services program may not use employment tests or criteria that discriminate against handicapped persons, and shall insure that employment tests are adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills.

(g) A legal services program may not conduct a pre-employment medical examination or make a pre-employment inquiry as to whether an applicant is a handicapped person or as to the nature or severity of a handicap except under the circumstances described in 45 CFR 84.14(a)–(d)(2). The Corporation shall have access to relevant information obtained in accordance with this section to permit investigations of alleged violations of this part.

(h) A legal services program shall post in prominent places in each of its offices a notice stating that the legal services program does not discriminate on the basis of handicap.

(i) Any recruitment materials published or used by a legal services program shall include a statement that the legal services program does not discriminate on the basis of handicap.

**§ 1624.7 Self-Evaluation.**

(a) By January 1, 1980, a legal services program shall evaluate, with the assistance of interested persons including handicapped persons or organizations representing handicapped persons, its current facilities, policies and practices and the effects thereof to determine the extent to which they may or may not comply with the requirements of this part and the cost of structural or other changes that would be necessary to make each of its facilities accessible to handicapped persons.

(b) The results of the self-evaluation, including steps the legal services program plans to take to correct any deficiencies revealed and the timetable for completing such steps, shall be made available for review by the Corporation and interested members of the public.

**§ 1624.8 Enforcement.**

The procedures described in Part 1618 of these regulations shall apply to any alleged violation of this part by a legal services program.

**Dan J. Bradley,**

*President, Legal Services Corporation.*

[FR Doc. 79-29690 Filed 9-24-79; 8:45 am]

BILLING CODE 6820-35-M

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 32

## Opening of Certain National Wildlife Refuges in Arizona, California, and New Mexico

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

**ACTION:** Special Regulations.

**SUMMARY:** The Director has determined that the opening to hunting on certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which hunting will be permitted on portions of certain National Wildlife Refuges in Arizona, California and New Mexico.

**DATES:** Effective on date of publication from October 1, 1979 through December 31, 1979.

**FOR FURTHER INFORMATION CONTACT:** The Area Manager or appropriate Refuge Manager at the address or telephone listed below:

Albert W. Jackson, Area Manager, U.S. Fish and Wildlife Service, 2953 W. Indian School Road, Phoenix, Ariz. 85017. Telephone: 602–261–6833.

James R. Fisher, Refuge Manager, Cabeza Prieta National Wildlife Refuge, P.O. Box 418, Ajo, Ariz. 85321. Telephone: 602–387–6483.

Wesley V. Martin, Refuge Manager, Cibola National Wildlife Refuge, P.O. Box AP, Blythe, Calif. 92225. Telephone: 714–922–2129.

Tyrus W. Berry, Refuge Manager, Havasu National Wildlife Refuge, P.O. Box A, Needles, Calif. 92363. Telephone: 714–326–3853.

Gerald E. Duncan, Refuge Manager, Imperial National Wildlife Refuge, P.O. Box 2217, Martinez Lake, Ariz. 85364. Telephone: 602–783–3400.

Milton K. Haderlie, Refuge Manager, Kofa National Wildlife Refuge, Box 1032, Yuma, Ariz. 85364. Telephone: 602–783–7861.

LeMoyne B. Marlatt, Refuge Manager, Bitter Lake National Wildlife Refuge, P.O. Box 7, Roswell, N. Mex. 88201. Telephone: 505–622–6755.

Ronald L. Perry, Refuge Manager, Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801. Telephone: 505–835–1828.

Ronald L. Perry, Refuge Manager, San Andres National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801. Telephone: 505–835–1828.

**SUPPLEMENTARY INFORMATION:**

### General

Hunting of big game on portions of the following refuges shall be in accordance with applicable State regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Vehicular travel is restricted to designated roads and trails. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager at the addresses above.

**§ 32.32 Special regulation; big game; for individual wildlife refuges.**

### Arizona

*Cabeza Prieta National Wildlife Refuge (Desert Bighorn Sheep). Havasu National Wildlife Refuge (Desert Bighorn Sheep). Kofa National Wildlife Refuge (Mule Deer and Desert Bighorn Sheep)*

*Special conditions:* (1) Hunting of mule deer and/or desert bighorn sheep is permitted but only by those holding a valid permit from the Arizona Game and Fish Department for the species being hunted. The permit must be for the period (season) and area being hunted. (2) Possession or transportation of a loaded firearm or strung bow within or on any motorized vehicle or its attachments is prohibited. A loaded firearm means any firearm containing any cartridge or ammunition in its chamber, magazine, or clip. (3) Possession or transportation of an uncased firearm within or on any motorized vehicle or its attachments is prohibited. An uncased firearm means any firearm not encased in a holster, scabbard, or gun case (soft or hard). (4) Possession of weapons is permitted only by those legally hunting on the refuge and weapons are restricted to those legal for use in the permitted hunt being engaged in by a particular hunter. (5) On the Havasu Refuge, hunting will not be permitted in those portions of Units 16 B and 44 which abut the Bill Williams River. The Bill Williams Unit is open to hunting south of the Planet Ranch Road only.

**Arizona and California**

*Cibola National Wildlife Refuge*

*Special Conditions:* (1) Arizona—bow and arrow season for mule deer is from October 6 through November 4, 1979; firearms season, from November 9 through November 18, 1979. California—bow and arrow season for deer, from October 6 through October 28, 1979; firearms season, from November 3 through November 25, 1979. (2) Hunting is prohibited within one-fourth mile of any occupied dwelling, 250 yards of any farm worker, or within 50 yards of any road or levee. (3) Pits or permanent blinds may not be built. (4) Only rifled, centerfire firearms may be used to take deer during the firearms season. Bow and arrows may be used only during the archery season in accordance with appropriate State regulations. (5) Possession of all handguns and all .22 caliber rimfire firearms is prohibited. (6) Vehicles are prohibited from driving across farm fields or through any undefined trail or road. (7) Both Zones I and II (Arizona) are closed to hunting. (8) Overnight camping is prohibited on the refuge.

*Imperial National Wildlife Refuge*

Mule Deer (Gun Seasons Only—No Archery Season on This Refuge)

*Special Conditions:* (1) Arizona—deer season, from November 9 through November 18, 1979. California—deer season, from November 3 through November 25, 1979. (2) Except as provided under the special regulations covering the hunting of small game, doves and migratory waterfowl on the Imperial National Wildlife Refuge, possession of any firearms other than a legal deer hunting firearm, as defined by State hunting regulations, is prohibited.

**New Mexico**

*Bitter Lake National Wildlife Refuge*

Mule Deer

*Special condition:* Vehicles are not permitted in the wilderness area; otherwise, vehicles are restricted to established roads and trails.

*Bosque del Apache National Wildlife Refuge*

Mule Deer

*Special conditions:* (1) Only the State stratified modern firearms deer season and the State bow hunting season will be open on the refuge. (2) The refuge is open to public access from one-half hour before sunrise to one-half hour after sunset only. (3) Only those areas on the refuge designated by sign and delineated on maps available at refuge headquarters as open to hunting are permissible hunt areas.

*San Andres National Wildlife Refuge*

Desert Bighorn Sheep

*Special conditions:* (1) Hunting of desert bighorn sheep is permitted only by those holding a valid permit from the New Mexico Department of Game and Fish. (2) Hunters must check into the area in accordance with instructions from the Department of Game and Fish and/or the Refuge Manager. (3) No entry into the hunting area from the west will be permitted north of Rope Springs Road. Hunters will not be permitted to enter the hunting area from the east side of the San Andres Refuge except at the discretion of the officer in charge (White Sands Missile Range). (4) Officer-in-charge may restrict the number of hunters entering any particular local area. If required by the military firing schedule, hunters will be cleared from all areas where their safety is endangered. (5) Each hunting party will camp within an assigned area and within 100 feet of the road.

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

**Note.**—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A–107.

**Albert W. Jackson,**

*Area Manager, Fish and Wildlife Service, Phoenix, Arizona.*

September 17, 1979.

[FR Doc. 79–29608 Filed 9–24–79; 8:45 am]

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**50 CFR Part 32**

## Sport Migratory Game Bird Hunting; Certain National Wildlife Refuges in Oklahoma and Texas

**AGENCY:** 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 waterfowl, Snipe and Woodcock.

**EFFECTIVE DATES:** October 1, 1979 through January 31, 1980.

**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 secretary 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:

**§ 32.12 Special regulations; migratory game birds: For individual wildlife refuge area.**

**Oklahoma**

Sequoyah Naional Wildlife Refuge, P. O. Box 695, Vian, Oklahoma 74962. Telephone 918–773–5251. Migratory game birds. Special Conditions: (1) Hunting of ducks, geese, coots, snipe, and woodcock is in accordance with the Oklahoma State season for migratory birds. (2) Firearms of any kind are prohibited in areas not posted as open to public hunting, except the Kerr-McClellan Navigation Channel, where firearms must be

cased or broken down. (3) Camping or possession of firearms on the refuge at night is prohibited.

Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Oklahoma, 73460, Telephone 405–371–2402. Migratory game birds. Special Conditions: (1) Public hunting of ducks, geese and coots is permitted on the Tishomingo Wildlife Management Area of the Tishomingo National Wildlife Refuge, Oklahoma. (2) Duck, goose and coot hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of these species. (3) Ducks and coots may be hunted only in Management Area Zones 1 and 2. Duck and coot hunting is restricted to the hours of one-half hour before sunrise to 11:45 a.m. on Tuesdays, Thursdays, Saturdays and Sundays and national holidays except Christmas day; from November 17 through November 25, 1979 and from December 18, 1979 through January 13, 1980. Duck and coot hunting in Zone 2 shall be restricted to hunters using retrieving dogs and/or boats in order to prevent an undue loss of downed birds in deep water. Construction of permanent blinds is prohibited in Zones 1 & 2, however, temporary blinds may be constructed of down and/or dead native vegetation. Any material brought into the area for temporary blind construction must be removed from the area at the conclusion of the day's hunt. Temporary blinds may be placed where desired after giving due consideration to safety and hunting opportunities to hunters already in the area. Blinds may not be constructed or used within 80 yards of a blind already in use. Each hunter in Zones 1 & 2 will be limited to no more than 25 shells in possession. (4) Geese may be hunted in Zone 3 only. Goose hunting is restricted to the hours of one-half hour before sunrise to 11:45 a.m. on Tuesdays, Thursdays, Saturdays, and Sundays, and national holidays except Christmas day; from November 17, 1979 through November 25, 1979 and from December 18, 1979 through January 13, 1980. In zone 3, thirty-five (35) goose blinds are provided; all goose hunting shall take place from these blinds. Hunters must apply in writing to the Refuge Manager, Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Oklahoma 73460, for blind reservations which will be selected by lot. Reservation requests for no more than five (5) dates may be submitted for hunting parties of no more than three (3) members. If a name is found on more than one application, all applications containing that name will be discarded without consideration, including all party members on such applications. Conformation and rejections of applications will be made by mail in timely order. Blind assignments to those whose applications have been accepted will be determined by a punchboard process just prior to each day's hunt. Each hunter in Zone 3 will be limited to no more than six (6) shotgun shells in possession. Shot size will not be larger than BB's. Zone 3 hunters must remain in their assigned blinds during each day's hunt except to place or adjust decoys and/or to retrieve downed birds. Further, hunters may leave their blinds to pick up decoys and leave the hunt area only at 9:30 a.m. and after 11:30 a.m. (5) All hunters must report to designated checking stations to check into or out of the area. (6) "Skybusting"; i.e., firing at birds in excess of 45 yards from the hunter is prohibited in all zones.

**Texas**

Brazoria National Wildlife Refuge, Box 1088, Angleton, TX 77515, Telephone 713–849–6062. Migratory game birds. Special conditions: (1) Access to the hunting areas must be entirely over public water routes. Travel across the refuge mainland to and from the area open to hunting is not permitted. Areas open to hunting are designated on maps which are available from the refuge manager at the above address. (2) Pits may not be dug and permanent blinds may not be constructed. Hunters may not have possessory right to any blind. Temporary blinds may be made of native dead vegetation. Any materials brought onto the refuge for blind construction must be removed at the end of each hunt. (3) The refuge waterfowl season is in accordance with the Texas State waterfowl season.

San Bernard National Refuge, Box 1088, Angleton, TX 77414, Telephone 713–849–6062. Migratory game birds. Special conditions: (1) The waterfowl hunting area on this refuge is divided into two parts: Special permit waterfowl hunting area (SPWH area) and free waterfowl hunting areas (also locally known as the Cedar Lakes and the Smith Marsh tract). These areas are designated on maps available from the refuge manager at the above address. (2) A refuge permit will be required for participation in the SPWH area. Permit applications are available at the Refuge Office, 1013 North Velasco Street, Angleton, TX, and must be returned to the refuge office by October 15, 1979 to be eligible for drawing for advanced reservations. (3) The refuge waterfowl season is in accordance with the Texas State waterfowl season. (4) Waterfowl hunters are required to be present at the check station by 4:30 a.m., local time. (5) The refuge will furnish duck decoys for the special permit waterfowl hunt and no other duck decoys may be used in this segment of the hunt. Goose decoys are permitted but will not be furnished. (6) Hunters participating in the special permit waterfowl hunt may not leave their blinds except to retrieve dead or wounded waterfowl or to rearrange their decoys. (7) Hunting days for the SPWH area will be Saturdays, Sundays and Wednesdays. (8) Hunters will stop hunting and shooting at 10 a.m., local time, in the SPWH area and return to a hunt check station to fill out a hunter questionnaire. (9) Any available hunting blinds in the SPWH area will be filled by hunters without reservations on a standby basis immediately prior to each day's hunt. (10) A "Special hunter service recreation fee" of $3 will be collected from each hunter for each hunting trip on the SPWH area. Holders of "Golden Age Passports" will be charged $1.50. (11) Hunters will be required to walk through marsh terrain to assigned blinds from designated parking areas. (12) In the SPWH area guns may not be loaded until hunters reach their assigned blinds. (13) No guest or observers are permitted in the blinds. (14) Access to the free waterfowl hunting areas (Cedar Lakes and Smith Marsh tract) must be primarily over public water routes. (15) On the free waterfowl hunting areas pits may not be dug and permanent blinds may not be constructed. Hunters may not have possessory rights to any blind. Temporary blinds may be made of native dead vegetation. Any materials brought on to the refuge for blind construction must be removed at the end of each hunt. (16) Birds may not be plucked on the refuge. (17) Alcoholic beverages and controlled drugs are prohibited in all hunt areas on the refuge.

Aransas National Wildlife Refuge (Matagorda Island Unit), P.O. Box 100, Austwell, TX 77950, Telephone 512–286–3559. Migratory game bird. Special conditions: (1) Unless otherwise specified, all laws and regulations published by the Texas Parks and Wildlife Department concerning waterfowl hunting will be applicable. (2) Taking of snow geese will not be permitted on the refuge. (3) Hunting hours: one half (½) hour before sunrise until 12 o'clock noon. (4) The area will be open 3 days a week (Saturday, Sunday and Wednesday). Refuge transportation on the island will be provided to and from the Matagorda Island dock and the hunt area. Hunters will receive a short briefing covering hunter behavior, bird identification with special emphasis on the peregrine falcon and other endangered species, and refuge management on the island prior to the hunt. Hunters must be at the Island docks by 5 a.m., at which time a drawing will be held for blind selection. (5) In the event whooping cranes begin using habitat within the hunt area, all or portions of that area will be closed to hunting.

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.

**James J. Hubert,**

*Acting Area Manager, Austin, Texas.*

[FR Doc. 79–29609 Filed 9–24–79; 8:45 am]

BILLING CODE 4310–55–M

# Proposed Rules

Federal Register
Vol. 44, No. 187
Tuesday, September 25, 1979

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Stabilization and Conservation Service

### 7 CFR Part 701

### Emergency Conservation Program (ECP); Proposed Rule

**AGENCY:** Agricultural Stabilization and Conservation Service, Department of Agriculture.

**ACTION:** Proposed rule.

**SUMMARY:** The proposed rule would amend the current regulations by (1) Changing the program name from the Emergency Conservation Measures Program to the Emergency Conservation Program; (2) Including in the program water conservation and water enhancement practices which provide for drought emergency cost-share assistance to eligible persons during periods of severe drought and which were formerly provided under the Drought and Flood Conservation Program which terminated on September 30, 1978; and (3) Changing procedures so that practices dealing with flood and windstorm disasters are more responsive to land rehabilitation needs. The proposed rule also provides that the Deputy Administrator, State and County Operations (DASCO), shall make the determination to implement the program when severe drought conditions exist.

**DATES:** Written comments with respect to this proposal must be submitted on or before November 25, 1979, in order to be assured of consideration.

**ADDRESSEES:** Conservation and Environmental Protection Division, ASCS, USDA, 3096-South Building, P.O. Box 2415, Washington, D.C, 20013.

**FOR FURTHER INFORMATION CONTACT:** Ellsworth R. DeMasters (ASCS) (202) 447-6825.

**SUPPLEMENTARY INFORMATION:** The ECP will carry out sections 401 and 402 of Title IV of the Agricultural Credit Act of 1978 (Pub. L. 95-334; 92 Stat. 434, approved August 4, 1978), hereafter referred to as (the "Act"). These proposed regulations to implement ECP are designed to provide cost-share funds for emergency assistance to meet only the critical needs of agricultural producers due to severe drought or other natural disasters.

A prenotice of rulemaking was filed in the Federal Register on July 25, 1979, requesting public comment by August 8, 1979, with respect to the administration of emergency conservation programs authorized by that Act. While two responses were received, only one response addressed comments relating to formulation of the ECP. One comment stated that an expeditious environmental assessment should be made prior to carrying out practices to repair damages and rehabilitate farmland to preexisting conditions. Regulations issued by the Agricultural Stabilization and Conservation Service (ASCS) for the purpose of complying with The National Environmental Policy Act provide that environmental concerns will be evaluated and appropriate actions taken when implementing practices under ECP. A second comment recommended that provisions be instituted to assure that practices installed under other Federal programs were properly maintained throughout their design life in order to be eligible for repair or replacement under Emergency Programs. ASCS does not believe that it would be feasible in terms of personnel resources of costs to monitor farming operations for this purpose. ECP cost-sharing is proposed to be limited to restore or rehabilitate conservation structures only to their predisaster condition.

Accordingly, it is proposed that the regulations at 7 CFR Part 701—Subpart—Emergency Conservation Measures Program be amended to read as follows:

### Subpart—Emergency Conservation Program

Sec.

701.46 Program objectives.
701.47 Program availability.
701.48 Eligibility of person and land.
701.49 Emergency Conservation Program practices.
701.50 Practice approval.
701.51 Extent of cost-sharing
701.52 Eligible costs.
701.53 Filing requests.
701.54 Approving requests.
701.55 Pooling limitations.
701.56 Payment limitations
701.57 Other Program provisions.

**Authority:** Pub. L. 95-334; 92 Stat. 434 (16 U.S.C. 2201, 2202).

### Subpart—Emergency Conservation Program

**§ 701.46 Program objectives.**

The objective of the Emergency Conservation Program is to cost-share with eligible persons to rehabilitate farmlands damaged by wind and water erosion, floods, hurricanes, or other natural disasters and to provide water conservation or water enhancement measures during periods of severe drought.

**§ 701.47 Program availability.**

(a) Subject to the availability of funds, the county committee may implement the program where new conservation problems have been created on farmland by a natural disaster or wind erosion which, if not treated; (1) Represent damage which is unusual in character and, except for wind erosion, shall not be the type that would recur frequently in the same area; (2) Materially affects the productive capacity of the land or water resource; (3) Will impair or endanger the land or water resources; and (4) Will be so costly to rehabilitate that Federal assistance is or will be required to return the land to productive agricultural use.

(b) Subject to the availability of funds, the county committee with the concurrence of the State committee and approval of the Deputy Administrator, State and County Operations (DASCO) may implement the program to carry out emergency water conservation and water enhancement measures during periods of severe drought.

**§ 701.48 Eligibility of person and land.**

Eligibility of person and land is the same as for the Agricultural Conservation Program as provided in §§ 701.7 and 701.8.

**§ 701.49 Emergency conservation program practices.**

(a) Except for severe drought and wind erosion, cost-sharing may be offered for emergency conservation practices only to replace or restore farmland to a condition similar to that existing prior to the natural disaster. Cost-sharing may not be offered for the

solution of conservation problems existing prior to the disaster.

(b) Emergency Conservation Program practices for which cost-sharing may be authorized are generally:

(1) Removing Debris from Farmland.

(2) Grading, Shaping, Releveling or Similar Measures.

(3) Restoring Permanent Fences.

(4) Restoring Structures and Other Installations.

(5) Emergency Wind Control Measures.

(6) Drought Emergency Measures.

(7) Other Emergency Conservation Measures.

**§ 701.50 Practice approval.**

Practices listed in §§ 701.49(b) (1) through (5) may be approved by the county committees. Practices (6) and (7) of § 701.49(b) must be approved by DASCO.

**§ 701.51 Extent of cost-sharing.**

The county committee shall establish cost-share levels for each practice at a level not to exceed 80 percent of the cost of such practice.

**§ 701.52 Eligible costs.**

Upon determination that a producer is eligible for emergency conservation program assistance, cost-sharing shall be granted for all reasonable costs incurred in the completion of the practice. This extends to personal labor, equipment, and other such costs which can be justified to ASCS. County committees shall limit costs for the use of personal equipment to an amount that reflects out-of-pocket expenses. Expenses for personal labor and personal equipment should be less than rates charged by contractors who expect to make a profit for their efforts.

**§ 701.53 Filing requests.**

The county committee shall establish a sign up period for filing cost-sharing requests as soon as possible after the decision has been made to implement the ECP. Such periods should be at least 30 days in length. Late filed requests may be accepted by the county committee in justifiable cases.

**§ 701.54 Approving requests.**

County committees will issue practice approvals only when the requested practice has been determined eligible for cost-sharing assistance and the eligible person has indicated the producer is ready to start the practice.

**§ 701.55 Pooling agreements.**

Pooling agreements may be used on the same basis as provided for in the Agricultural Conservation Program in § 701.18.

**§ 701.56 Payment approval.**

The county committee may approve payments not to exceed $10,000 per person, per disaster. Cost-share assistance in excess of $10,000 must be approved by DASCO.

**§ 701.57 Other program provisions.**

Other provisions of this part as provided for in §§ 701.1 and 701.2 and in the subpart, General Provisions, apply to the Emergency Conservation Program.

**Note.**—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044. A determination has been made that this action should not be classified "significant" under those criteria. A draft impact analysis is available from Ellsworth DeMasters (202) 447–6825.

Signed at Washington, D.C., on September 17, 1979.

**Roy Fitzgerald,**

*Administrator, Agricultural Stabilization and Conservation Service.*

[FR Doc. 79–29526 Filed 9–24–79; 8:45 am]

BILLING CODE 3410–05–M

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## Agricultural Marketing Service

**[7 CFR Part 985]**

**[Docket No. F&V AO–79–1]**

## Spearmint Oil Produced in the Far West

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice of Hearing on a Proposed Marketing Agreement and Order for Spearmint Oil Produced in the Far West.

**SUMMARY:** Notice is hereby given of a public hearing to be held beginning at 9:00 a.m., October 16, 1979, in the District Court, Franklin County Court House, 1016 North Fourth Street, Pasco, Washington 99302, with respect to a proposed marketing agreement and order regulating the handling of spearmint oil produced in Washington, Idaho, Oregon, and portions of Wyoming, Utah, Nevada, and California. The proposal was submitted by a committee of spearmint growers. A prenotice press release announcing the proposal, inviting public comments, and offering copies of the proposal to interested persons was released on July 10, 1979. Four written comments were received.

**ADDRESSES:** It would be desirable if persons interested in presenting oral or written testimony for or against the proposed marketing agreement and order would make their intentions known by writing the Hearing Clerk, United States Department of Agriculture, South Building, Room 1077, Washington, D.C. 20250 (7 CFR 1.27(b)). However, failure to make known such intentions as herein provided shall not preclude any person from appearing at the hearing and presenting oral or written testimony for or against the proposed marketing agreement and order.

**FOR FURTHER INFORMATION CONTACT:** William J. Higgins, (202) 447–5053.

**SUPPLEMENTAL INFORMATION:** The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The hearing is for the purpose of:

(a) Receiving evidence with respect to economic and marketing conditions which relate to the proposed marketing agreement and order, hereinafter set forth, and any appropriate modifications thereof;

(b) determining whether the handling of spearmint oil produced in the area proposed for regulation is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate of foreign commerce;

(c) Determining whether there is a need for a marketing agreement or order regulating the handling of spearmint oil produced in the area; and,

(d) Determining whether provisions specified in the proposal or some other provisons appropriate to the terms of the Agricultural Marketing Agreement Act of 1937, as amended, will tend to effectuate the declared policy of the act.

The proposals set forth below have not received the approval of the Secretary of Agriculture.

This proposal has been reviewed under the USDA criteria for implementing Executive Order 12044, and has been classified "significant". A Draft Impact Analysis is available from William J. Higgins, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250.

**Proposal No. 1.**

**Definitions**

Sec.

985.1 Secretary.
985.2 Act.
985.3 Person.
985.4 Spearmint Oil.
985.5 Production Area.
985.6 Producer.
985.7 Handler.

Sec.

985.8 Handle.
985.9 Marketing Year.
985.10 Crop.
985.11 Salable Oil.
985.12 Salable Quantity.
985.13 Annual Allotment.
985.14 Part and Subpart.

Administrative Committee

985.20 Establishment and Membership.
985.21 Eligibility.
985.22 Term of Office.
985.23 Nominations.
985.24 Selection.
985.25 Alternate Members.
985.26 Vacancies.
985.27 Powers.
985.28 Duties.
985.29 Procedure.
985.30 Expenses and Compensation.

Research

985.31 Research and Development Projects.

Expenses and Assessments.

985.40 Expenses.
985.41 Assessments.
985.42 Accounting.

Volume Limitations

985.50 Marketing Policy.
985.51 Recommendations for Volume Regulation.
985.52 Issuance of Volume Regulation.
985.53 Allotment Base.
985.54 Issuance of Annual Allotments.
985.55 Identification.
985.56 Excess Oil.
985.57 Reserve Pool Requirements.
985.58 Exempt Oil.
985.59 Transfers.
985.60 Reports.
985.61 Records.
985.62 Verification of reports and records.
985.63 Confidential Information.
985.64 Compliance.
985.65 Rights of the Secretary.
985.66 Derogation.
985.67 Agents.
985.68 Personal Liability.
985.69 Duration of Immunities.
985.70 Separability.
985.71 Effective Time.
985.72 Termination.
985.73 Proceedings after Termination.
985.74 Effect of Termination or Amendments.

Authority: Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et. seq.)

## Definitions

### § 985.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the U.S. Department of Agriculture who is, or who may be, authorized to perform the duties of the Secretary of Agriculture of the United States.

### § 985.2 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, Stat. 31, as amended; 7 U.S.C. 601–674).

### § 985.3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

### § 985.4 Spearmint Oil.

"Spearmint Oil", hereinafter referred to as "oil", means the essential oil extracted by distillation from plants, grown in the production area, of the genus Mentha, species Cardiaca (commonly referred to as Scotch Spearmint), Spicata (commonly referred to as Native Spearmint), or such other species, grown in the production area, that produce a spearmint flavored oil. Oil shall be segregated into the following classes:

"Class 1"—Oil extracted from the first cutting of Scotch Spearmint.

"Class 2"—Oil extracted from the second cutting of Scotch Spearmint.

"Class 3"—Oil extracted from Native Spearmint.

"Class 4"—Oil which has a spearmint flavor, extracted from plants other than Scotch or Native Spearmint.

### § 985.5 Production Area.

"Production Area" means all the area within the States of Washington, Idaho, Oregon, and that portion of California and Nevada north of the 37th parallel and that portion of Montana and Utah west of the 111th meridian. The area shall be divided into the following districts:

(a) District 1. The State of Washington.

(b) District 2. The State of Idaho and that portion of the States of Montana, Nevada, and Utah included in the production area.

(c) District 3. The State of Oregon and that portion of the State of California included in the production area.

### § 985.6 Producer.

"Producer" is synonymous with "grower" and means any person engaged in a proprietary capacity in the commercial production of oil or who causes it to be produced.

### § 985.7 Handler.

"Handler" means any person who handles oil.

### § 985.8 Handle.

"Handle" means to prepare oil for market, acquire oil from a producer, use oil commercially of own production, or sell, transport, or ship (except as a common or contract carrier of oil owned by another), or otherwise place oil into the current of commerce within the production area or from the area to points outside thereof: *Provided*, That (a) the preparation for market of salable oil by producers who are not dealers or users, (b) the sale or transportation of salable oil by a producer to a handler of record within the production area, or (c) the transfer of excess oil by the producer to another producer to enable that producer to fill a deficiency in an annual allotment, or the delivery of excess oil by the producer to the Committee or its designees, shall not be construed as handling.

### § 985.9 Marketing Year.

"Marketing Year" means the 12 months from June 1 to the following May 31, inclusive, or such other period as recommended by the Committee.

### § 985.10 Crop.

"Crop" means that oil produced by a producer during the marketing year.

### § 985.11 Salable Oil.

"Salable Oil" means that oil which is free to be handled.

### § 985.12 Salable Quantity.

"Salable Quantity" means the total quantity of each class of oil which handlers may purchase from, or handle on behalf of, producers during a marketing year.

### § 985.13 Annual Allotment.

"Annual Allotment" means that portion of the salable quantity pro-rated to an individual producer.

### § 985.14 Part and Subpart.

"Part" means the order regulating the handling of oil grown in the production area, and all rules and regulations issued thereunder. The order shall be a "subpart" of such part.

## Administrative Committee

### § 985.20 Establishment and Membership.

A Spearmint Oil Administrative Committee is hereby established (hereinafter referred to as "Committee") and shall consist of eight members, each of whom shall have an alternate, to administer the terms and provisions of this part. Four of the members and alternates shall be producers in District 1; two members and alternates shall be producers in District 2; and one member and alternate shall be a producer in District 3. One member and alternate shall represent the public.

### § 985.21 Eligibility.

Each member and alternate member of the Committee shall be, at the time of selection during the term of office, a producer, or an officer or employee of a

producer, in the district for which selected.

**§ 985.22 Term of Office.**

The term of office of each member and alternate member of the Committee shall be for two calendar years: *Provided,* That one-half of the initial members and alternates shall serve for terms ending December 31, 1980, and one-half of the initial members and alternates shall serve for terms ending December 31, 1981. Members and alternates shall serve in such capacity for the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified. No member shall serve more than two consecutive terms as member and no alternate shall serve more than two consecutive terms as alternate.

**§ 985.23 Nominations**

(a) *Procedure.* (1) Nominations for producer members of the Committee and their alternates shall be made at nomination meetings of producers in each District. Such meetings shall be held at such times (on or before November 1 of each year) and places as the Committee shall designate. One nominee shall be elected for each position to be filled. The names and addresses of each nominee shall be submitted to the Secretary not later than December 1 of each year.

(2) Only producers, including duly authorized officers or employees of producers present and eligible to serve as producer members of the Committee, shall participate in the nomination. No producer shall participate in the nomination of nominees in more than one district. If a producer produces oil in more than one district, the producer shall select the district in which that producer will participate and notify the Committee of the choice.

(3) Should the Committee find it impractical to hold nomination meetings, nominations may be submitted to the Secretary based on the results of balloting by mail. Ballots to be used may contain the names of the candidates and a blank space for write-in candidates for each position, together with voting instructions. The eligible person receiving the highest number of votes for a member or alternate position shall be the nominee for that position.

(4) The producer members of the Committee shall nominate the public member and alternate member at the first meeting following the selection of members for a new term of office.

(b) *Initial members.* As soon as practicable following the effective date of this subpart, the Secretary shall hold, or cause to be held, nomination meetings of producers in each district to nominate the initial members of the Committee.

(c) The Committee with the approval of the Secretary shall issue rules and regulations necessary to carry out the provisions of this section or to change the procedures in this section in the event they are no longer practical.

**§ 985.24 Selection.**

Committee members shall be selected by the Secretary from nominees submitted by the Committee or from among other eligible persons. Each person so selected shall qualify by filing a written acceptance with the Secretary prior to assuming the duties of the position.

**§ 985.25 Alternate Members.**

An alternate for a member shall act in the place of such member (a) in the member's absence, or (b) in the event of the member's death, removal, resignation, or disqualification, until a successor for the member's unexpired term has been selected and has qualified.

**§ 985.26 Vacancies.**

To fill any vacancy occasioned by the failure of any person appointed as a member or as an alternate member of the Committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the Committee, a successor to fill the unexpired term shall be nominated and appointed in the manner specified in §§ 985.23 and 985.24. If the names of the nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which appointment shall be made on the basis of representation provided for in § 985.20.

**§ 985.27 Powers.**

The Committee shall have the following powers:

(a) To administer this subpart in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violations of this part;

(d) To recommend to the Secretary amendments to this subpart.

**§ 985.28 Duties.**

The Committee shall have, among others, the following duties:

(a) To select from among its membership such officers and adopt such rules or by-laws for the conduct of its meetings as it deems necessary;

(b) To appoint such employees as it may deem necessary, and to determine the compensation and to define the duties of each employee;

(c) To appoint such subcommittees and consultants as it may deem necessary;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the Committee and which shall be subject to examination by the Secretary;

(e) To prepare periodic statements of the financial operations of the Committee and to make copies of each such statement available to producers and handlers for examination at the office of the Committee;

(f) To cause the books of the Committee to be audited by a certified public accountant at such times as the Committee may deem necessary, or as the Secretary may request, to submit copies of each audit report to the Secretary, and to make available a copy which does not contain confidential data for inspection at the offices of the Committee by producers and handlers;

(g) To act as intermediary between the Secretary and any producer or handler;

(h) To investigate and assemble data on the growing, handling, and marketing conditions with respect to oil;

(i) To submit to the Secretary such available information as may be requested or that the Committee may deem desirable and pertinent;

(j) To notify producers and handlers of all meetings of the Committee to consider recommendations for regulations and of all regulatory actions taken affecting producers and handlers;

(k) To give the Secretary the same notice of meetings of the Committee and its subcommittees as is given to its members;

(l) To investigate compliance and use means available to prevent violations of the provisions of this part; and,

(m) With the approval of the Secretary, to redefine the districts into which the production area is divided and to reapportion the representation of any district on the Committee: *Provided,* That such changes shall reflect insofar as practical, shifts in oil production within the production area and numbers of growers.

**§ 985.29 Procedure.**

(a) At an assembled meeting, all votes shall be cast in person and seven members of the Committee shall constitute a quorum. Decisions of the Committee shall require the concurring vote of at least six members. If both a Committee member and appropriate alternate are unable to attend a Committee meeting, the Committee may designate any other alternate from the same district who is present at the meeting to serve in the member's place.

(b) The Committee may vote by mail, telephone, telegraph, or other means of communications: *Provided,* That each proposition is explained accurately, fully, and identically to each member. All votes shall be confirmed in writing. A reasonable time limit may be set by the Committee for receipt of written confirmation. Seven concurring votes and no dissenting vote shall be required for approval of a Committee action by such method.

**§ 985.30 Expenses and Compensation.**

Members of the Committee and their alternates and subcommittees shall serve without compensation but shall receive such allowances for necessary expenses, incurred in performing their duties, as may be approved by the Committee.

**Research**

**§ 985.31 Research and Development Projects.**

The Committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution and consumption or efficient production of oil. The Committee shall consider ongoing research, by industry and grower organizations, in making its recommendations. The expense of such projects shall be paid back from funds collected pursuant to § 985.41.

**Expenses and Assessments**

**§ 985.40 Expenses.**

The Committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it for such purposes as the Secretary may, pursuant to this subpart, determine to be appropriate, and for the maintenance and functioning of the Committee during each marketing year. The Committee shall submit to the Secretary a budget for each marketing year, including an explanation of the items appearing therein, and a recommendation as to the rate of assessment for such year.

**§ 985.41 Assessments.**

(a) *Requirements for payment.* Each person who first handles salable oil shall pay to the Committee, upon demand, that handler's pro rata share of the expenses authorized by the Secretary for each marketing year. Each handler's pro rata share shall be the rate of assessment fixed by the Secretary times the quantity of oil which the handler handles as the first handler thereof. The payment of assessments for the maintenance and functioning of the Committee and for such purposes as the Secretary may, pursuant to this subpart, determine to be appropriate, may be required under this part throughout the period it is in effect, irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) *Rate of assessment.* The Secretary shall fix the rate of assessment to be paid by each handler. At any time during or after the marketing year, the Secretary may increase the rate of assessment as necessary to cover authorized expenses. Such increase shall be applied to all oil handled during the applicable marketing year. In order to provide funds for the administration of this part before sufficient operating income is available from assessments, the Committee may accept advance assessments and may also borrow money for such purpose. Advance assessments received from a handler shall be credited toward assessments levied against that handler during the marketing year.

**§ 985.42 Accounting.**

(a) *Excess funds.* At the end of a marketing year, funds in excess of the year's expenses may be placed in an operating reserve not to exceed approximately one marketing year's operational expenses or such lower limits as the Committee, with the approval of the Secretary, may establish. Funds in such reserve shall be available for use by the Committee for expenses authorized pursuant to § 985.40. Funds in excess of those placed in the operating reserve shall be refunded to handlers: *Provided,* That any sum paid by a first handler in excess of that handler's pro rata share of the expenses during any marketing year may be applied by the Committee at the end of such marketing year to any outstanding obligations due the Committee from such person. Each handler's share of such excess funds shall be the amount of assessments paid in excess of that handler's pro rata share.

(b) *Disposition of funds upon termination of order.* Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided,* That to the extent practicable, such funds will be returned pro rata to the first handler from whom such funds were collected.

**Volume Limitations**

**§ 985.50 Marketing Policy.**

(a) The Committee shall meet on or before January 15 of each year, or such other date as the Committee, with the approval of the Secretary may establish, to adopt a Marketing Policy for the ensuing marketing year or years. As soon as is practical following the meeting or meetings, the Committee shall submit to the Secretary recommendations for volume regulations deemed necessary to meet market requirements and establish orderly marketing conditions. Additional reports shall be submitted if the Committee subsequently adopts a new or revised policy because of Changes in the demand and supply situation with respect to the various classes of oil.

(b) In determining such marketing policy, Committee consideration shall include but not be limited to:

(1) The estimated amount of salable oil of each class held by producers and handlers;

(2) The estimated demand for each class of oil;

(3) Prospective production of each class of oil;

(4) Total of base quantities of each class for the current marketing year and the estimated base quantity of each class for the ensuing marketing year;

(5) The amount of reserve oil, by class, in storage;

(6) Producer prices of oil, including prices for each class of oil;

(7) General market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity.

(c) Notice of the marketing policy recommendations for a marketing year and any later changes shall be announced publicly by the Committee, and be submitted promptly to the Secretary and all producers and handlers. The Committee shall publicly announce its marketing policy or revision thereof and notice and contents thereof shall be submitted to producers and handlers by bulletins or through appropriate media.

**§ 985.51 Recommendations for Volume Regulation.**

(a) If these considerations indicate a need for limiting the quantity of oil of each class marketed, the Committee shall recommend to the Secretary a salable quantity and allotment percentage for the ensuing marketing year. Such recommendations shall be made prior to February 15, or such other date as the Committee, with the approval of the Secretary, may establish.

(b) At any time during the marketing year for which the Secretary, pursuant to § 985.52(a), has established a salable quantity and an allotment percentage for each class of oil, the Committee may recommend to the Secretary that such quantity be increased with an appropriate increase in the allotment percentage. Each such recommendation, together with the Committee's reason for such recommendation, shall be submitted promptly to the Secretary.

**§ 985.52 Issuance of Volume Regulation.**

(a) Whenever the Secretary finds, on the basis of the Committee's recommendation or other information, that limiting the total quantity of a class of oil of any crop that handlers may purchase from or handle on behalf of producers during a marketing year, would tend to effectuate the declared policy of the act, the Secretary shall establish the salable quantity for that oil. The salable quantity shall be prorated among producers by applying an allotment percentage to each producer's allotment base for that class of oil. The allotment percentage shall be established for each class of oil by dividing the salable quantity by the total of all producer's allotment bases for the same class of oil.

(b) When an allotment percentage for each class of oil is established for any marketing year, no handler may purchase from or handle on behalf of producer's any oil during such year unless: (1) It is, at the time of handling, within the unused salable quantity of a producer's annual allotment, and

(2) Such handler notifies the Committee of the handling in such manner as it may prescribe.

**§ 985.53 Allotment Base.**

(a) When notified by the Committee through appropriate channels each producer desiring an allotment base for one or more classes of oil shall register with the Committee and furnish to it, on forms provided by the Committee, a report of the number of pounds of each class of oil sold during each of the marketing years of 1977, of 1978, and of 1979, which is the representative base period, and the number of pounds of each class of oil currently available for sale and the location of such oil, the name and address of each handler, the quantity of oil by class sold to each handler, the acreage and location of each year's production of spearmint, and any additional information requested by the Committee. A producer who has changed or changes identity from an individual producer to a partnership or corporate producer, or from a partnership to a corporate or individual producer, or from a corporate to a partnership or individual producer, may for the purpose of establishing the initial and subsequent allotment base, register with the Committee as one and the same person.

(b)(1) For the initial marketing year, the allotment base shall be established by the Committee for each registered producer, at the option of such producer, as follows:

(i) Ninety percent of the number of pounds of oil of each class sold from any one of the crops of the representative base period; or

(ii) The average annual number of pounds of each class of oil sold during the representative period plus 33⅓ percent of oil of each class currently available for sale.

(2) If a producer has spearmint planted by February 27, 1979, but has no sales history during the representative period, the producer's allotment base shall be established by multiplying its acreage by the average amount of oil per acre sold in the allotment base of other producers in the state or locality, whichever is applicable, in which the acreage is located.

(c) Periodically, but at least once every five years, the Committee shall review and adjust each registered producer's allotment base to recognize changes and trends in production and demand. Any such adjustment shall be made in accordance with a formula prescribed by the Committee with the approval of the Secretary.

(d)(1) Beginning with the 1982–83 marketing year, the Committee annually shall make additional allotment bases available for each class of oil in the amount of no more than 1 percent of the total allotment base for that class of oil. Fifty percent of these additional allotment bases shall be made available for new producers and 50 percent made available for existing producers.

(2) Any person may apply for an additional allotment base for any class of oil by filing an application with the Committee on or before December 1 of the marketing year preceding the marketing year for which the additional allotment base will be made available.

(3) The Committee shall, with the approval of the Secretary, establish rules and regulations to be used for determining the distribution of additional allotment bases. In establishing such rules, the Committee shall take into account, among other things, the minimum economic enterprise requirements for oil production, the applicant's ability to produce oil, the area where the oil will be produced and other economic and marketing factors.

(e) The right of each producer receiving an allotment base, or any legal successors in interest, to retain all or part of an allotment base, shall be dependent on continuance to make a bona fide effort to produce the annual allotment referable thereto and failing to do so, such allotment base shall be reduced by an amount equivalent to such unproduced portions.

**§ 985.54 Issuance of Annual Allotments.**

(a) Whenever the Secretary establishes a salable quantity and allotment percentage for a class of oil that may be freely marketed during a marketing year, the Committee shall issue an annual allotment to each producer holding an allotment base for that class of oil. Each producer's annual allotment for a class of oil shall be determined by multiplying the producer's allotment base for that class of oil by the applicable allotment percentage.

(b) On or before December 1, the Committee shall furnish each registered holder of an allotment base a form for the producer to apply for an annual allotment for the ensuing marketing year. The Committee, with the approval of the Secretary, shall establish rules and regulations prescribing the information to be contained on this form. The Committee shall notify each producer of the producer's annual allotment for each class of oil within 10 days after the Secretary establishes the salable quantity and allotment prcentage.

(c) Through 1981, a handler may acquire oil of a producer's own production to fulfill a written contract entered into by these two persons prior to February 27, 1979. The terms of this contract shall require the producer to deliver to that handler a specified quantity of a class of oil from a producer's production at a specific price from a specified acreage and produced prior to 1982. The quantity of oil acquired by the handler pursuant to that contract during the 1980–81 or 1981–82 marketing year may exceed the producer's annual allotment for the applicable marketing year, but shall be

charged against the producer's annual allotment for that year.

**§ 985.55 Identification.**

(a) Each producer of oil shall, under supervision of the Committee, identify each class of oil within 15 days following production or such other period of time as is recommended by the Committee with the approval of the Secretary. Identification of oil shall be accomplished before its delivery either to a handler for handling as salable oil, or to the Committee or its designees for storage as excess oil.

(b) Identification shall indicate whether the oil is salable or excess oil and include the name of the producer, the class of oil, the net weight, the container number and such other information as may be required by the Committee.

(c) Identification shall be accomplished in accordance with rules, regulations, and procedures established by the Committee with the approval of the Secretary.

(d) No handler shall handle as salable oil, and the Committee shall not receive as excess oil, any oil that has not been identified as provided in this section, and no producer or handler shall alter or remove any identification except when incidental to final disposition.

**§ 985.56 Excess Oil.**

Oil of any class in excess of a producer's applicable annual allotment shall be identified as excess oil and shall be disposed of as follows:

(a) Before October 15, or such date as the Committee, with the approval of the Secretary, may establish, a producer, following notification of the Committee, may transfer excess oil to another producer to enable that producer to fill a deficiency in that producer's annual allotment, or

(b) On or before November 1, or such other date as the Committee, with the approval of the Secretary, may establish, excess oil not used to fill another producer's deficiency shall be delivered to the Committee or its designees for storage pursuant to rules and procedures recommended by the Committee and approved by the Secretary. Such oil shall be stored for the account of the producer until released by the Committee pursuant to rules and regulations established by the Committee with the approval of the Secretary. All costs of storage including identification and insurance shall be paid by the producer of excess oil prior to release. No handler shall handle excess oil and no producer shall deliver excess oil to other than the Committee or its designees.

**§ 985.57 Reserve Pool Requirements.**

(a) The Committee shall pool identified excess oil in such manner as to accurately account for its receipt, storage and disposition. This oil shall be referred to as reserve oil. The Committee shall maintain the identity of the reserve oil by producer's name, the year produced, the class of oil, and such other identification as may be used in normal commercial trade practices. The Committee shall designate a Committee employee as reserve pool manager.

(b) *Disposition.* (1) When, in any marketing year, a producer has produced less than the annual allotment of a class of oil, the producer may, upon notification of the Committee fill the deficiency with the same class of reserve oil from the producer's prior production.

(2) Prior to March 15 of any year, or such other date as recommended by the Committee and approved by the Secretary, a producer may notify the Committee of a possible deficiency in the producer's ensuing year's production of oil and wishes to use reserve oil from own production to fill the ensuing year's annual allotment. The Committee shall approve the producer's request if the oil is still available at the time of the request.

(3) Under supervision of the Committee, a producer may exchange salable oil for the same class and quantity of reserve oil from own prior production so long as the oil is properly identified.

(4) When the Committee finds that additional oil is needed to fill the normal market demand, it shall offer all or a portion of the reserve oil for sale to handlers. Offers to sell, extension of offers and withdrawal of offers shall be subject to disapproval by the Secretary. The Committee may establish rules and regulations governing the offers and sales to handlers.

(5) The Committee may use reserve oil in market development projects approved by the Secretary. Such projects may be conducted by the Committee or in conjunction with or through handlers.

(c) *Disposition of pool proceeds.* The proceeds from the disposition of reserve oil shall be distributed, after deduction of any expenses incurred by the Committee in receiving, handling, storing, and disposing thereof, to the equity holders or their successors in interest, on the basis of the number of pounds, class of oil and quality credited to each account in the pool. A full accounting to each equity holder, or successor in interest, in each reserve pool shall be made by the Committee annually.

**§ 985.58 Exempt Oil.**

Oil held by a producer or handler on the effective date of this subpart shall not be regulated under this subpart if reported and identified to the Committee not later than 60 days after that date. Any such oil not reported and identified to the Committee shall be subject to all regulation under this subpart.

**§ 985.59 Transfers.**

(a) Nothing contained in this part shall prevent a producer from transferring the location where that producer's annual allotment is produced to another location except that the producer shall report the transfer to the Committee within 30 days after the transfer.

(b) A producer may transfer all or part of an allotment base to another producer under rules and regulations established by the Committee, with the approval of the Secretary: *Provided,* That the allotment base obtained by transfer from another producer or issued pursuant to § 985.53 shall not be transferred for at least 2 years following transfer or issuance, and that the transferee submit to the Committee, evidence of an ability to produce and sell oil from such allotment base in the first marketing year following the transfer of the allotment base.

**§ 985.60 Reports.**

(a) *Inventory.* Each handler shall file with the Committee a certified report showing such information as the Committee may specify with respect to any oil which was held by the handler at such times as the Committee may designate.

(b) *Receipts.* Each handler shall, upon request of the Committee, file with the Committee a certified report showing for each lot of oil received, the identifying marks, class of oil, weight, place of production, and the producer's name and address at such times as the Committee may designate.

(c) *Other reports.* Upon the request of the Committee, each handler shall furnish such other information as may be necessary to enable the Committee to exercise its powers and perform its duties under this part.

**§ 985.61 Records.**

Each handler shall maintain such records pertaining to all oil handled as will substantiate the required reports. All such records shall be maintained for not less than 2 years after the termination of the marketing year to which such records relate.

**§ 985.62 Verification of reports and records.**

For the purpose of assuring compliance with record keeping requirements and verifying reports filed by producers and handlers, the Secretary and the Committee, through its duly authorized employees, shall have access to any premises where applicable records are maintained, where oil is received or held, and at any time during reasonable business hours, shall be permitted to inspect such handler premises, and any and all records of such handlers with respect to matters within the purview of this part.

**§ 985.63 Confidential Information.**

All reports and records furnished or submitted by handlers to, or obtained by the employees of, the Committee which contain data or information constituting a trade secret or disclosing the trade position, financial condition, or business operations of the particular handler for whom received, shall be treated as confidential and the reports and all information obtained from records, shall, at all times, be kept in the custody and under the control of one or more employees of the Committee who shall disclose such information to no person other than the Secretary.

**§ 985.64 Compliance.**

No person shall handle oil except in conformity with the provisions of this part.

**§ 985.65 Rights of the Secretary.**

Members of the Committee and subcommittees, and any agents, employees or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every decision, determination, and other act of the Committee shall be subject to the continuing right of disapproval by the Secretary at any time. Upon such disapproval, the disapproved action of the Committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

**§ 985.66 Derogation.**

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

**§ 985.67 Agents.**

The Secretary may, by designation in writing, name any officer or employee of the United States or name any agency or division in the U.S. Department of Agriculture, to act as the Secretary's agent or representative in connection with any of the provisions of this part.

**§ 985.68 Personal Liability.**

No member or alternate member of the Committee and no employee or agent of the Committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgement, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

**§ 985.69 Duration of Immunities.**

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

**§ 985.70 Separability.**

If any provision of this part is declared invalid or the applicability thereof to any person, circumstances or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

**§ 985.71 Effective Time.**

The provisions of this subpart, and of any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until terminated or suspended in one of the ways specified in § 985.72.

**§ 985.72 Termination.**

(a) *Failure to effectuate.* The Secretary shall terminate or suspend the operation of any or all of the provisions of this part upon a finding that such provisions obstruct or do not tend to effectuate the declared policy of the act.

(b) *Referendum.* The Secretary shall terminate the provisions of this subpart at the end of any marketing year upon a finding that such termination is favored by a majority of the producers who, during the preceding marketing year, produced for market more than 50 percent of the volume of oil so produced: *Provided,* That termination shall be effective only if announced before May 31 of the then current marketing year.

(c) *Termination of act.* The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

**§ 985.73 Proceedings after Termination.**

Upon termination of the provisions of this part, the Committee shall, for the purpose of liquidating the affairs of the Committee, continue as trustees of all the funds and property then in its possession or under its control, including claims for any funds unpaid or property not delivered at the time of such termination. The said trustees shall (a) continue in such capacity until discharged by the Secretary; (b) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Committee and of the trustees, to such persons as the Secretary may direct; and (c) upon the request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Committee or the trustees pursuant thereto. Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the Committee and upon trustees.

**§ 985.74 Effect of Termination or Amendment.**

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provisions of this subpart or any regulation issued hereunder, or (b) release or extinguish any violation of this subpart or any regulation issued hereunder, or (c) affect or impair any rights or remedies of the Secretary or any other person with respect to any such violation.

Copies of this notice may be procured from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington, D.C. 20250 or may be inspected there.

Signed at Washington, D.C., on September 19, 1979.

**William T. Manley,**

*Deputy Administrator, Marketing Program Operations.*

[FR Doc. 79-29687 Filed 9-24-79; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Comptroller of the Currency

[12 CFR Part 7]

### Participation by National Banks in the Sale of Single-Premium Annuity Contracts; Extension of Comment Period

**AGENCY:** Comptroller of the Currency.

**ACTION:** Extension of Comment Period.

**SUMMARY:** The Comptroller of the Currency is extending the comment period of the advance notice of proposed rulemaking by 30 days to encourage maximum public participation in this matter.

**DATE:** Comments must be received on or before October 25, 1979.

**ADDRESS:** Written comments should be sent in triplicate to: Mr. John E. Shockey, Chief Counsel, Comptroller of the Currency, 490 L'Enfant Plaza, S.W., Washington, D.C. 20219.

**FOR FURTHER INFORMATION CONTACT:** Thomas P. Vartanian, Attorney, Comptroller of the Currency, Washington, D.C. 20219 (202) 447–1880.

**SUPPLEMENTARY INFORMATION:** On July 27, 1979, the Office of the Comptroller of the Currency published an advance notice of proposed rulemaking concerning participation by national banks in the sale of single-premium annuity contracts (44 FR 44172). The agency has received a written request on behalf of a group of major insurance companies requesting a thirty-day extension of the comment period "[b]ecause of the complexity of the legal issues raised by the Comptroller's proposal" which will require "substantial legal research * * * in order to properly prepare * * * comments." In addition, several telephone inquiries concerning an extension of time have been received.

The agency has considered these requests and concluded that an additional 30 days would encourage and facilitate maximum public participation on the difficult questions raised by the advance notice. Accordingly, the comment period is being extended to October 25, 1979.

Dated: September 19, 1979.

**John G. Heimann,**

*Comptroller of the Currency.*

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## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

[21 CFR Part 145]

[Docket No. 79N-0231]

### Canned Fruits; Berries: Proposed Standards of Identity

**AGENCY:** Food and Drug Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) proposes to amend the standard of identity for canned berries, primarily those provisions applicable to canned raspberries and canned strawberries, based on consideration of the international standards for these foods. In addition, certain acceptable provisions are applicable to the other berries. This action is taken to facilitate international trade and promote honesty and fair dealing in the interest of consumers.

**DATES:** Comments by November 26, 1979. Proposed compliance for the affected products initially introduced into interstate commerce: July 1, 1981.

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

**FOR FURTHER INFORMATION CONTACT:** F. Leo Kauffman, Bureau of Foods (HFF–414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–245–1164.

**SUPPLEMENTARY INFORMATION:** The Food and Agriculture Organization/World Health Organization (FAO/WHO) has submitted to the United States for consideration for acceptance a "Recommended International Standard for Canned Raspberries" (CAC/RX 60–1972) and a "Recommended International Standard for Canned Strawberries" (CAC/RS 62–1972), hereinafter referred to as the Codex standards.

In order to adopt, insofar as practicable, the Codex standards developed by the Codex Alimentarius Commission, FDA is proposing to amend the standard of identity for canned berries (21 CFR 145.120). The proposed amendment will:

1. Permit the use, within specified limits, of safe and suitable calcium salts as firming agents for all berries.

2. Permit the use of safe and suitable organic acids for all berries.

3. Provide for strawberry varieties of the genus *Fragaria.*

4. Recodify the format to reflect other recently promulgated standards of identity.

As a member of FAO of the United Nations and WHO, the United States is under treaty obligation to consider all Codex standards. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: Full acceptance, target acceptance, or acceptance with specified deviations. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country; as far as features dealt with by the Codex standard are concerned, products that do not comply, whether domestic or imported, will not be permitted to be distributed without restrictions under the name and description set forth in the standard. The restrictions that may be imposed are not incorporated in the Codex standards, but they are left to the legislation and regulations of the individual countries. A participating country that concludes that it cannot accept the Codex standard in any of the three ways is requested to indicate, with the reasons therefor, the manner in which its requirements differ from the Codex standard and whether products complying with the Codex standard will be permitted to move freely in the commerce of that country. Members of the Commission are requested to notify the Secretariat of the Codex Alimentarius Commission—Joint FAO/WHO Food Standards Programme, FAO, Rome, Italy, of their decision.

For many years, the United States has had standards of identity for canned raspberries and canned strawberries as a part of § 145.120 *Canned berries* (21 CFR 145.120), hereinafter referred to as the U.S. standard. There are no U.S. standards of quality for canned berries. (A fill of container standard for canned berries was proposed in the Federal Register of December 9, 1977 (42 FR 62282) as discussed below.) However, there are voluntary grade standards for marketing developed by the United States Department of Agriculture (USDA) for canned raspberries, canned blueberries and canned blackberries and other similar berries which include quality criteria and recommendations for fill of container based on drained weights. There is no USDA grade standard for canned strawberries.

Because the agency is unaware of any economic abuse associated with this food and because of the President's

directive and FDA's own policy of reducing and avoiding needless regulation, the agency is not proposing quality standards for canned raspberries or canned strawberries. The agency will consider proposing quality standards for canned berries upon receipt of petitions demonstrating that to do so would promote honesty and fair dealing in the interest of consumers.

The agency does believe, however, that this is an opportune time to update the canned berries identity standard to reflect current marketing and packing practices. The agency believes that this proposal will not only accomplish that objective, but will also promote honesty and fair dealing in the interest of consumers and facilitate international trade by adopting, insofar as practicable, the Codex standard.

In proposing to align to the extent possible the U.S. standards with the Codex standards, the agency has noted certain differences in the composition and format of the Codex standards as contrasted with the U.S. standards. The units of measurements in the U.S. standards are stated in the customary U.S. system (e.g., pounds, inches) and sometimes in units of the metric system, or both; whereas the Codex standard uses only the metric system. The agency recognizes that the International (Metric) System is commonly used throughout most of the world, and in the United States for technical purposes, and that it may eventually be adopted by the United States for common usage. The agency therefore is proposing that the International (Metric) System be used in the U.S. standards for canned berries with the equivalent units of the customary U.S. system shown parenthetically; this approach will be adopted in all food standard proposals.

The Codex standard also includes hygiene requirements, certain basic labeling requirements, and other factors which are not considered a part of food standards under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341, the legal basis for the promulgation of food standards). These factors are dealt with under other sections of the act; therefore, the agency will not discuss them in this proposal. Also, the Codex standard sometimes uses subjective terms in stating its requirements which cannot be expressed in precise enough terms to be legally enforceable, and the agency has also omitted them from the proposal when feasible.

In the **Federal Register** of December 9, 1977, the agency proposed to require a declaration of drained weight on the label on certain canned foods; the agency also proposed to amend certain fill of container standards to incorporate requirements for minimum fill (90 percent of the total capacity of the container) and minimum drained weights. A fill of container standard for canned berries § 145.120(c) was included in the December 9, 1977 proposal, and this document proposes no changes in the provisions covered by that proposal.

This proposal to amend § 145.120 is based on consideration of the following Codex standards (CAC/RS 60–1972 and CAC/RS 62–1972):

**Recommended International Standard for Canned Raspberries**

*1 Description*

1.1 *Product definition.* Canned raspberries is the product (a) prepared from raspberry varieties conforming to the characteristics of the fruit of *Rubus idaeus* L. or *Rubus occidentalis* L. which are reasonably whole, reasonably sound ripe fruit, and from which extraneous matter including calices and stems have been removed; (b) packed with water or other suitable liquid packing medium; and (c) processed by heat in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage.

1.2 *Varietal type.* Any suitable variety of raspberry may be used.

*2 Essential Composition and Quality Factors*

2.1 *Packing media.*

2.1.1 Canned raspberries may be packed in any one of the following:

2.1.1.1 Water—in which water is the sole packing medium;

2.1.1.2 Fruit juice—in which raspberry juice, or any other compatible fruit juice, is the sole packing medium;

2.1.1.3 Water and fruit juice(s)—in which water and raspberry juice, or water and any other single fruit juice or water and two or more fruit juices, are combined to form the packing medium;

2.1.1.4 Mixed fruit juices—in which two or more fruit juices, including raspberry, are combined to form the packing medium;

2.1.1.5 With sugar(s)—any of the foregoing packing media 2.1.1.1 through 2.1.1.4 may have one or more of the following sugars added: sucrose, invert sugar syrup, dextrose, dried glucose syrup, glucose syrup.

2.1.2 Classifications of packing media when sugars are added.

2.1.2.1 When sugars are added to raspberry juice or other fruit juices, the liquid media shall be not less than 15° Brix and shall be classified on the basis of the cut-out strength as follows: Lightly sweetened (name of fruit) juice; not less than 15° Brix. Heavily sweetened (name of fruit) juice; not less than 20° Brix.

2.1.2.2 When sugars are added to water or water and raspberry juice or water and fruit juices the liquid media shall be classified on the basis of the cut-out strength as follows: Basic Syrup Strengths—Light Syrup; not less than 15° Brix. Heavy syrup; not less than 20° Brix.

2.1.3 Optional Packing Media. When not prohibited in the country of sale, the following packing media may be used: Slightly Sweetened Water; not less than 11° Brix but less than 15° Brix. Water Slightly Sweetened; not less than 11° Brix but less than 15° Brix. Extra Light Syrup; not less than 11° Brix but less than 15° Brix. Extra Heavy Syrup; more than 26° Brix.

2.1.4 The cut-out strength of sweetened juice or syrup shall be determined on sample average, but no container may have a Brix value lower than that of the minimum of the next category below, if such there be.

2.2 *Quality criteria.*

2.2.1 Colour. Except for artifically coloured canned raspberries, the raspberries shall have normal colour characteristics for canned raspberries and typical of the variety used.

2.2.2 Flavour. Canned raspberries shall have a normal flavour and odour free from flavours or odours foreign to the product.

2.2.3 Texture. The raspberries shall have a reasonably uniform texture and shall not be excessively firm nor unreasonably soft.

2.2.4 Defects and allowances. Canned raspberries shall be substantially free from defects within the limits set forth as follows:

| Defects | Maximum limits |
|---|---|
| (a) Blemished berries (consisting of berries which are affected by wind rub, insects, disease, or which are deformed to the extent that the appearance or eating quality is materially affected).. | 10% m/m of drained raspberries. |
| (b) Crushed or broken berries (consisting of berries in which more than 50% of the drupelets are crushed, broken, detached, or otherwise damaged to the extent that the original conformation is destroyed).. | 25% m/m of drained raspberries. |
| Total of the foregoing defects (a) and (b). | 25% m/m of drained raspberries. |
| (c) Extraneous plant material (based on averages): | |
| (i) Stalks (stems) or parts thereor, each longer than 3 mm. | 2 pieces per 100 grams of drained raspberries. |
| (ii) Leaves, calices, or portions of any of these, or other similar harmless extraneous plant material. | 2 sq. cm per 100 grams of drained raspberries. |

2.2.5 Classification of "defectives." A container that fails to meet one or

more of the applicable quality requirements, as set out in subsection 2.2.1 through 2.2.4 (except extraneous plant material which is based on an average), shall be considered a "defective".

2.2.6 Acceptance. A lot will be considered as meeting the applicable quality requirements referred to in sub-section 2.2.5 when:

(a) for those requirements which are not based on averages, the number of "defectives", as defined in sub-section 2.2.5, does not exceed the acceptance number (c) of the appropriate sampling plan in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL–6.5) (Ref. CAC/RM 42–1969); and

(b) the requirements which are based on sample averages are complied with.

*3 Food Additives*

Maximum Level of Use

3.1 *Colours.*

3.1.1 Erythrosine [1]—CI 45430; 300 mg/kg of the final product singly or in combination.

*4 Hygiene*

4.1 It is recommended that the product covered by the provisions of this standard be prepared in accordance with the International Code of Hygienic Practice for Canned Fruit and Vegetable Products recommended by the Codex Alimentarius Commission (Ref. CAC/RCP 2–1969).

3.1.2 Ponceau 4 R [1]—CI 16255; 300 mg/kg of the final product singly or in combination.

4.2 To the extent possible in good manufacturing practice the product shall be free from objectionable matter.

4.3 When tested by appropriate methods of sampling and examination, the product

(a) shall be free from microorganisms capable of development under normal conditions of storage, and

(b) shall not contain any substances originating from microorganisms in amounts which may be toxic.

*5 Weights and Measures*

5.1 *Fill of container.*

5.1.1 Minimum fill. The container shall be well filled with raspberries, and the product (including packing medium) shall occupy not less than 90% of the water capacity of the container. The water capacity of the container is the volume of distilled water at 20°C which the sealed container will hold when completely filled.

5.1.2 Classification of "defectives". A container that fails to meet the requirement for minimum fill (90 percent container capacity) of subsection 5.1.1 shall be considered a "defective".

5.1.3 Acceptance. A lot will be considered as meeting the requirement of sub-section 5.1.1 when the number of "defectives", as defined in sub-section 5.1.2, does not exceed the acceptance number (c) of the appropriate sampling plan in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL–6.5) (Ref. CAC/RM 42–1969).

5.1.4 Minimum drained weight.

5.1.4.1 The drained weight of the product shall be not less than 37% of the weight of distilled water at 20°C which the sealed container will hold when completely filled.

5.1.4.2 The requirement for minimum drained weight shall be deemed to be complied with when the average drained weight of all containers examined is not less than the minimum required, provided that there is no unreasonable shortage in individual containers.

*6 Labelling*

In addition to Section 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. CAC/RS 1–1969), the following specific provisions apply:

6.1 *The name of the food.*

6.1.1 The name of the product shall be "Raspberries".

6.1.2 In the case of raspberries other than red raspberries, the colour of the fruit shall be included as part of the name or in close proximity to the name.

6.1.3 The packing medium shall be declared as part of the name or in close proximity to the name.

6.1.3.1 When the packing medium is composed of water, or water and raspberry juice, or water and one or more fruit juices in which water predominates, the packing medium shall be declared as: "In water" or "Packed in water".

6.1.3.2 When the packing medium is composed solely of raspberry juice, or any other single fruit juice, the packing medium shall be declared as: "In raspberry juice" or "In (name of fruit) juice".

6.1.3.3 When the packing medium is composed of two or more fruit juices, which may include raspberry juice, it shall be declared as: "In (name of fruits) juice" or "In fruit juices" or "In mixed fruit juices".

6.1.3.4 When sugars are added to raspberry juice or other fruit juices, the packing medium shall be declared as: "Lightly sweetened (name of fruit) juice" or "Heavily sweetened (name of fruits) juice(s)" or "Lightly sweetened fruit juices" or "Heavily sweetened mixed fruit juice(s)"; as may be appropriate.

6.1.3.5 When sugars are added to water, or water and a single fruit juice (including raspberry juice) or water and two or more fruit juices, the packing medium shall be declared as: "Light syrup" or "Heavy syrup" or "Water slightly sweetened" or "Slightly sweetened water" or "Extra light syrup" or "Extra heavy syrup"; as may be appropriate.

6.1.3.6 When the packing medium contains water and raspberry juice or water and one or more fruit juice(s), in which the fruit juice comprises 50% or more by volume of the packing medium, the packing medium shall be designated to indicate the preponderance of such fruit juice, as for example: "Raspberry juice and water" or "(name of fruit) juice(s) and water".

6.2 *List of ingredients.* A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with sub-section 3.2(c) of the General Standard for the Labelling of Prepackaged Foods, except that water need not be declared.

6.3 *Net contents.* The net contents shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold.

6.4 Name and address. The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

6.5 *Country of origin.*

6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

*7 Methods of Analysis and Sampling*

The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Method of sampling.* Sampling shall be in accordance with the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL–6.5) (CAC/RM 42–1969).

7.2 *Determination of drained weight.* According to the FAO/WHO Codex Alimentarius method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vetetables, CAC/RM 36–1970, *Determination of Drained Weight—*

[1] Temporarily endorsed.

*Method I).* Results are expressed as % m/m calculated on the basis of the mass of distilled water at 20°C which the sealed container will hold when completely filled.

7.3 *Syrup measurements (refractometric method).* According to the AOAC (1970) method (Official Methods of Analysis of the AOAC, 1970. *31.011:* (Solids) by Means of Refractometer (4). Official, Final action (and 47.015 and 47.012). Results are expressed as % m/m sucrose ("degrees Brix") without correction for insoluble solids, acidity or invert sugar, but with correction for temperature to the equivalent at 20°C.

7.4 *Determination of water capacity of containers.* According to the FAO/WHO Codex Alimentarius method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, 2nd Series, *Determination of Water Capacity of Containers*—CAC/RM 46–1972). Results are expressed as volume of distilled water that the container holds.

**Recommended International Standard for Canned Strawberries**

*1 Description*

1.1 *Product definition.* Canned strawberries is the product (a) prepared from strawberries of varieties (cultivars) conforming to the characteristics of the Genus *Fragaria* which are whole, clean, reasonably sound, of proper maturity and from which extraneous matter including calices and stems have been removed; (b) packed with water or other suitable liquid packing medium; and (c) processed by heat in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage.

1.2 *Varietal type* Canned strawberries may be of any suitable variety (cultivar) of cultivated strawberry.

*2 Essential Compostion and Quality Factors*

2.1 *Packing media.*

2.1.1 Canned strawberries may be packed in any one of the following:

2.1.1.1 Water—in which water is the sole packing medium;

2.1.1.2 Fruit Juice—in which strawberry juice, or any other compatible fruit juice is the sole packing medium;

2.1.1.3 Water and fruit juice(s)—in which water and strawberry juice, or water and any other single fruit juice or water and two or more fruit juices, are combined to form the packing medium;

2.1.1.4 Mixed fruit juices—in which two or more fruit juices, which may include strawberry, are combined to form the packing medium;

2.1.1.5 With sugar(s)—any of the foregoing packing media 2.1.1.1 through 2.1.1.4 may have one or more of the following sugars added: sucrose, invert sugar syrup, dextrose, dried glucose syrup, glucose syrup.

2.1.2 Classification of packing media when sugars are added.

2.1.2.1 When sugars are added to strawberry juice or other fruit juices, the liquid media shall be not less than 14° Brix and shall be classified on the basis of the cut-out strength as follows: Lightly sweetened (name of fruit) juice; not less than 14° Brix. Heavily sweetened (name of fruit) juice; not less than 18° Brix.

2.1.2.2 When sugars are added to water or water and strawberry juice or water and fruit juices and liquid media shall be classified on the basis of the cut-out strength as follows: Basic Syrup Strengths—Light Syrup; not less than 14° Brix. Heavy Syrup; not less than 18° Brix.

2.1.3 Optional Packing Media. When not prohibited in the country of sale, the following packing media may be used: Slightly Sweetened Water; Water Slightly Sweetened; Extra Light Syrup; not less than 10° Brix but less than 14° Brix. Extra Heavy Syrup; more than 22° Brix.

2.1.4 The cut-out strength of sweetened juice or syrup shall be determined on sample average, but no container may have a Brix value lower than that of the minimum of the next category below, if such there be.

2.2 Quality criteria.

2.2.1 Colour. Except for artificially coloured canned strawberries, the strawberries shall have normal colour characteristics for canned strawberries and typical of the variety used.

2.2.2 Flavour. Canned strawberries shall have a normal flavour and odour free from flavours and odours foreign to the product.

2.2.3 Texture. The strawberries shall have a reasonably uniform texture and shall not be excessively firm or unreasonably soft.

2.2.4 Defects and allowances. Canned strawberries shall be reasonably free from common defects within the limits set forth as follows:

| Defects | Maximum limits |
|---|---|
| (a) Berries with parts of, or with complete, calices. | 15%, by count. |
| (aa) Berries with complete calices, limited within the foregoing allowance to. | 15%, by count. |
| (b) Blemished berries (consisting of berries with spots caused by mould damage or bird pecks more than 5 mm in diameter and deformed berries). | 15%, by count. |
| (c) Broken berries (where the major part is broken or entirely disintegrated). | 20%, by count. |
| Total of all the foregoing defects—(a) and/or (aa), (b) and (c) | 30%, by count. |
| (d)Extraneous plant material (based on averages): | |
| (i) Stalks (stems) or parts thereof, each longer than 3mm. | 1 piece per 100 grammes of drained strawberries. |
| (ii) Leaves, unattached calices, or portions of any of these, or other similar harmless extraneous plant material. | 1 sq. cm. per 100 grammes of drained strawberries. |

2.2.5 Mineral Impurities. Not more than 300 mg/kg of total contents.

2.2.6 Classification of "defectives". A container that fails to meet one or more of the applicable quality requirements, as set out in sub-section 2.2.1 through 2.2.4 (except extraneous plant material which is based on averages), shall be considered a "defective".

2.2.7 Acceptance. A lot will be considered as meeting the applicable quality requirements referred to in sub-section 2.2.6 when:

(a) for those requirements which are not based on averages, the number of "defectives", as defined in sub-section 2.2.6, does not exceed the acceptance number (c) of the appropriate sampling plan in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL–6.5) (Ref. CAC/RM 42–1969); and

(b) the requirements which are based on sample averages are complied with.

*3 Food Additives*

3.1 *Acidifying agents.*

3.1.1 Citric acid; maximum level of use: not limited.

3.1.2 Lactic acid; maximum level of use: not limited.

3.1.3 Malic acid; maximum level of use: not limited.

3.1.4 L—Tartaric acid; maximum level of use: not limited.

3.2 *Colours.*

3.2.1 Erythrosine[1]—CI 45430; maximum level of use: 300 mg/kg of the final product, singly or in combination.

3.2.2 Ponceau 4 R[1]—CI 16255; maximum level of use: 300 mg/kg of the final product, singly or in combination.

3.3 *Firming agents.*

3.3.1 Calcium chloride; maximum level of use: 350 mg/kg of the final product, calculated as total Ca.

3.3.2 Calcium gluconate; maximum level of use: 350 mg/kg of the final product, calculated as total Ca.

3.3.3 Calcium lactate; maximum level of use: 350 mg/kg of the final product, calculated as total Ca.

[1] Temporarily endorsed.

*4 Contaminant*

Tin; maximum level: 250 mg/kg[2] calculated as Sn.

*5 Hygiene*

5.1 It is recommended that the product covered by the provisions of this standard be prepared in accordance with the International Code of Hygienic Practice for Canned Fruit and Vegetable Products recommended by the Codex Alimentarius Commission (Ref. CAC/RCP 2–1969).

5.2 To the extent possible in good manufacturing practice the product shall be free from objectionable matter.

5.3 When tested by appropriate methods of sampling and examination, the product:

(a) shall be free from microorganisms capable of development under normal conditions of storage, and

(b) shall not contain any substances originating from microorganisms in amounts which may be toxic.

*6 Weights and Measures*

6.1 *Fill of container.*

6.1.1 Minimum fill. The container shall be well filled with strawberries and the product (including packing medium) shall occupy not less than 90% of the water capacity of the container. The water capacity of the container is the volume of distilled water at 20°C which the sealed container will hold when completely filled.

6.1.2 Classification of "defective". A container that fails to meet the requirement for minimum fill (90 percent container capacity) of sub-section 6.1.1 shall be considered a "defective".

6.1.3 Acceptance. A lot will be considered as meeting the requirement of subsection 6.1.1 when the number of "defectives", as defined in sub-section 6.1.2, does not exceed the acceptance number (c) of the appropriate sampling plan in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL–6.5) (Ref. CAC/RM 42–1969).

6.1.4 Minimum drained weight.

6.1.4.1 The drained weight of the product shall be not less than 35% of the weight of distilled water at 20°C which the sealed container will hold when completely filled.

6.1.4.2 The requirement for minimum drained weight shall be deemed to be complied with when the average drained weight of all containers examined is not less than the minimum required, provided that there is no unreasonable shortage in individual containers.

[2]This is a provisional limit which is subject to review.

*7 Labeling*

In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. CAC/RS 1–1969) the following specific provisions apply:

7.1. *The name of the food.*

7.1.1 The name of the product shall be "strawberries".

7.1.2 The packing medium shall be declared as part of the name, or in close proximity to the name.

7.1.2.1 When the packing medium is composed of water, or water and strawberry juice, or water and one or more furit juices in which water predominates, the packing medium shall be declared as: "In water" or "Packed in water".

7.1.2.2 When the packing medium is composed solely of strawberry juice, or any other single fruit juice, the packing medium shall be declared as: "In strawberry juice" or "In (name of fruit) juice".

7.1.2.3 When the packing medium is composed of two or more fruit juices, which may include strawberry juice, it shall be declared as: "In (name of fruits) juice" or "In fruit juices" or "In mixed fruit juices."

7.1.2.4 When sugars are added to strawberry juice or other fruit juices, the packing medium shall be declared as: "Lightly sweetened (name of fruit) juice" or "Heavily sweetened (name of fruits) juice(s)" or "Lightly sweetened fruit juices" or "Heavily sweetened mixed fruit juice(s)"; as may be appropriate.

7.1.2.5 When sugars are added to water, or water and a single fruit juice (including strawberry juice) or water and two or more fruit juices, the packing medium shall be declared as: "Light syrup" or "heavy syrup" or "Water slightly sweetened" or "Slightly sweetened water" or "Extra light syrup" or "Extra Heavy syrup"; as may be appropriate.

7.1.2.6 When the packing medium contains water and strawberry juice or water and one or more fruit juice(s), in which the fruit juice comprises 50% or more by volume of the packing medium, the packing medium shall be designated to indicate the preponderance of such fruit juice, as, for example: "Strawberry juice and water" or "(name of fruit) juice(s) and water."

7.2 *List of ingredients.* A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with subsection 3.2(c) of the General Standard for the Labelling of Prepackaged Foods, except that water need not be declared.

7.3 *Net contents.* The net contents shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold.

7.4 *Name and address.* The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

7.5 *Country of origin.*

7.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

7.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

*8 Methods of Analysis and Sampling*

The methods of analysis and sampling referred to hereunder are international referee methods.

8.1 *Method of sampling.* Sampling shall be in accordance with the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL–6.5) (Ref. CAC/RM 42–1969).

8.2 *Determination of drained weight.* According to the FAO/WHO Codex Alimentarius method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, CAC/RM 36–1970, *Determination of Drained Weight—Method I*). Results are expressed as % m/m calculated on the basis of the mass of distilled water at 20°C which the sealed container will hold when completely filled.

8.3 *Syrup measurements (refractometric method).* According to the AOAC (1970) method (Official Methods of Analysis of the AOAC, 1970, *31.011:* (Solids) by means of Refractometer (4), Official. Final Action (and 47.015 and 47.012). Results are expressed as % m/m sucrose ("degrees Brix"), without correction for insoluble solids, acidity or invert sugar, but with correction for temperature to the equivalent at 20°C.

8.4 *Determination of mineral impurities.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables—Second Series, CAC/RM 49–1972, *Determination of Mineral Impurities (sand)*). Results are expressed as mg/kg of total contents.

8.5 *Determination of calcium.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and

Vegetables, CAC/RM 38–1970, *Determination of Calcium in Canned Vegetables*). Results are expressed as mg/kg total calcium in the final product.

8.6 *Determination of water capacity of containers.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables—Second Series—CAC/RM 46–1972, *Determination of Water Capacity of containers*). Results are expressed as volume of distilled water that the container holds.

The following is a comparison of the principal differences between the Codex standards, the U.S. standard (21 CFR 145.120), and the agency's proposed action. The agency particularly requests comments and supporting data on these points.

**Comparison of Identity Aspects and Proposed Course of Action**

1. *Varietal types.* The Codex standard for canned raspberries (1.1) and the U.S. standard (21 CFR 145.120(b)(1)) provide that canned raspberries are to be prepared from varieties "conforming to the characteristics of the fruit of *Rubus idaeus* L. or *Rubus occidentalis* L".

*Rubus idaeus* is the European red raspberry, some of which are grown in the United States. Red raspberries grown in the United States are predominantly of the variety *Rubus strigosus* Michx (*R. idaeus* variant *strigosus* Maxim). Also, there is a purple cane raspberry *Rubus neglectus* which is hybrid between *R. idaeus* and *R. occidentalis*. However, these are considered to conform to the characteristics of *R. idaeus* or *R. occidentalis*.

The FDA proposes no change in the wording of § 145.120(a)(2)(i), formerly § 145.120(b)(1).

The Codex standard for canned strawberries (1.1) specifies that they shall be of the genus *Fragaria*, whereas the U.S. standard (21 CFR 145.120(b)(9)) does not indicate the genus.

The agency proposes to adopt the Codex requirement by amending § 145.120(a)(2)(ix), formerly § 145.120(b)(9) of the U.S. standard to identify strawberries as being of the genus, *Fragaria*. This will bring the U.S. standard of identity for canned strawberries into agreement with the proposed U.S. standard of identity for frozen strawberries.

2. *Sweeteners.* The Codex standards for canned raspberries (2.1.1.5) and canned strawberries (2.1.1.5) provide for the optional use of sucrose, invert sugar sirup, dextrose, dried glucose sirup, or glucose sirup, whereas 21 CFR 145.120(c) provides for the optional use of any one or any combination of two or more safe and suitable nutritive carbohydrate sweeteners.

The agency proposes to retain the present wording of § 145.120(a)(3)(i), formerly § 145.120(c).

3. *Packing medium density.* There are no essential differences between the packing medium density ranges provided for canned raspberries in 21 CFR 145.120(c)(2) and those prescribed by the Codex standard for canned raspberries (2.1.2 and 2.1.3).

The agency proposes no change in the packing medium density ranges for canned raspberries in § 145.120(a)(3)(ii), formerly § 145.120(c)(2).

The packing medium density ranges for Codex canned strawberries are also essentially the same as those prescribed for canned strawberries in the U.S. standard (21 CFR 145.120(c)(2)) except that Codex (2.1.3) specifies a minimum of 10 Brix for slightly sweetened water, whereas the U.S. standard for canned strawberries (21 CFR 145.120(c)(2)(i)) has no minimum Brix for the packing medium density known as slightly sweetened water.

The agency proposes to adopt the 10 Brix minimum for strawberries recommended in the Codex standard for slightly sweetened water in § 145.120(a)(3)(ii)(a), formerly § 145.120(c)(2)(i).

4. *Artificial color.* The Codex standard for canned raspberries (3.1) and that for canned strawberries (3.2) provide for the optional use of temporarily endorsed artificial color. The U.S. standard (21 CFR 145.120) contains no provision for the use of artificial colors in canned berries.

The agency is unaware of any use of or need to use artificial colors in berries canned in the United States and therefore proposes no change in the existing standard with regard to artificial color.

5. *Acidifying agents.* The Codex standard for canned raspberries does not provide for organic acids as optional ingredients. The Codex standard for canned strawberries (3.1) provides for the optional use of citric acid, lactic acid, malic acid, or L-tartaric acid.

Although the U.S. standard (21 CFR 145.120) contains no reference to acidifying agents, many of the other fruit standards in 21 CFR Part 145, provide for the optional use of safe and suitable organic acids. In the agency's opinion, the permission to optionally add organic acids to canned strawberries should extend to all canned berry products irrespective of kind or type.

Therefore, to make the canned berries standard consistent with other fruit standards in 21 CFR Part 145 and to adopt the Codex provisions for optional organic acids in canned strawberries, the agency proposes to amend the U.S. identity standard for berries by adding § 145.120(a)(4)(iii) to permit the use of safe and suitable organic acids.

6. *Firming agents.* The Codex standard for canned raspberries does not provide for firming agents. The Codex standard for canned strawberries (3.3) provides for the optional use of firming agents (calcium chloride, calcium gluconate, or calcium lactate) within the prescribed limit of 350 mg/kg (0.035 percent) of the final product, calculated as calcium. Section 145.120 makes no provision for the use of firming agents.

The agency notes that the calcium salts provided for by Codex are similar in identity and amount to those allowed in the U.S. standards for canned tomatoes (21 CFR 155.190) and canned potatoes (21 CFR 155.200). The agency is of the opinion that the optional use of calcium salts should be extended to all canned berry products covered under § 145.120 including canned raspberries even though Codex makes no such provision. Therefore, the agency proposes to amend the U.S. identity standard by adding § 145.120(a)(4)(ii) to provide for the optional use, within the limit of 350 mg/kg (0.035 percent) calculated as calcium, of any safe and suitable calcium salt in lieu of specifying the salts that may be used.

7. *Flavors.* The Codex standards for canned raspberries and canned strawberries make no provision for addition of natural or artificial flavors. The U.S. standard (21 CFR 145.120(a)) provides that canned berries may contain suitable natural and artificial flavors. The agency proposes no change in § 145.120(a)(4)(i), formerly § 145.120(a).

8. *Labeling—ingredients.* The Codex standards for canned raspberries (6.2) and canned strawberries (7.2) call for complete listing of ingredients in descending order of proportion, except that water need not be declared.

The U.S. standard (21 CFR 145.120(d)(4)) requires that each of the optional ingredients shall be declared on the label as required by the applicable sections of 21 CFR Part 101. The U.S. standard provides for the use of water, fruit juice(s) and water or fruit juice(s) as optional packing media. Because water, therefore, is an opitional ingredient, it must be declared.

The agency proposes no change in § 145.120(a)(5)(iv), formerly § 145.120(a)(4).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, as amended, 70

Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 145 be amended by revising § 145.120 to read as follows:

**§ 145.120 Canned berries.**

(a) *Identity*—(1) *Ingredients.* Canned berries is the food prepared from any suitable variety of one of the optional berry ingredients specified in paragraph (a)(2) of this section, which may be packed in one of the optional packing media specified in paragraph (a)(3) of this section, and may contain one or any combination of two or more of the safe and suitable optional ingredients specified in paragraph (a)(4) of this section. Such food is sealed in a container and before or after sealing is so processed by heat to prevent spoilage.

(2) *Varietal types.* The optional berry ingredients referred to in paragraph (a)(1) of this section are prepared from stemmed fruit of the following optional varietal types of berry ingredient; namely:

(i) Raspberry varieties conforming to the characteristics of *Rubus idaeus* L. or *Rubus occidentalis* L.

(ii) Blackberries.

(iii) Blueberries.

(iv) Boysenberries.

(v) Dewberries.

(vi) Gooseberries.

(vii) Huckleberries.

(viii) Loganberries.

(ix) Strawberry varieties conforming to the characteristics of *Fragaria.*

(x) Youngberries.

(3) *Packing media.* (i) The optional packing media referred to in paragraph (a)(1) of this section, as defined in § 145.3 are:

(*a*) Water.

(*b*) Fruit juice(s) and water.

(*c*) Fruit juice(s).

Such packing media may be used as such or any one of any combination of two or more safe and suitable nutritive carbohydrate sweetener(s) may be added. Sweeteners defined in § 145.3 shall be as defined therein, except that a nutritive carbohydrate sweetener for which a standard of identity has been established in Part 168 of this chapter shall comply with such standard in lieu of any definition that may appear in § 145.3.

(ii) When a sweetener is added as a part of any such liquid packing medium, the four density ranges of the resulting packing media hereinafter specified for each berry ingredient, expressed as percent by weight of sucrose (degrees Brix) as determined by the procedure described in § 145.3(m), shall be designated by the appropriate name for each of the respective density ranges for each berry ingredient as:

(*a*) "Slightly sweetened water" or "extra light sirup", "slightly sweetened fruit juice(s) and water"; or "slightly sweetened fruit juice(s)", as the case may be.

(*b*) "Light sirup", when the liquid used is water; "lightly sweetened fruit juice(s) and water"; or "lightly sweetened fruit juice(s)", as the case may be.

(*c*) "Heavy sirup", when the liquid used is water; or "heavily sweetened fruit juice(s) and water"; or "heavily sweetened fruit juice(s)", as the case may be.

(*d*) "Extra heavy sirup", when the liquid used is water; or "extra heavily sweetened fruit juice(s) and water"; or "extra heavily sweetened fruit juice(s)", as the case may be.

The density ranges referred to herein are:

| Optional berry ingredient | Density ranges | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | (*a*) | | (*b*) | | (*c*) | | (*d*) | |
| | Minimum | Maximum less than | Minimum | Maximum less than | Minimum | Maximum less than | Minimum | Maximum not more than |
| Blackberries | ..... | 14 | 14 | 19 | 19 | 24 | 24 | 35 |
| Blueberries | ..... | 15 | 15 | 20 | 20 | 25 | 25 | 35 |
| Boysenberries | ..... | 14 | 14 | 19 | 19 | 24 | 24 | 35 |
| Dewberries | ..... | 14 | 14 | 19 | 19 | 24 | 24 | 35 |
| Gooseberries | ..... | 14 | 14 | 20 | 20 | 25 | 25 | 35 |
| Huckleberries | ..... | 15 | 15 | 20 | 20 | 25 | 25 | 35 |
| Loganberries | ..... | 14 | 14 | 19 | 19 | 24 | 24 | 35 |
| Raspberries | 11 | 18 | 15 | 20 | 20 | 27 | 27 | 35 |
| Strawberries | 10 | 14 | 14 | 19 | 19 | 27 | 27 | 35 |
| Youngberries | ..... | 14 | 14 | 19 | 19 | 24 | 24 | 35 |

(*a*) "Slightly sweetened water."
(*b*) "Light sirup."
(*c*) "Heavy sirup."
(*d*) "Extra heavy sirup."

(4) *Optional ingredients.* The optional ingredients referred to in paragraph (a)(1) of this section are:

(i) Natural and artificial flavors.

(ii) Calcium salts as firming agents provided that the calcium added is no more than 0.035 percent, calculated as calcium, of the weight of the finished canned berries.

(iii) Organic acids.

(5) *Labeling requirements.* (i) The name of the food is the appropriate name of the berry ingredient specified in paragraph (a)(2) of this section.

(ii) The name of the packing medium, as used in paragraph (a)(3)(i) of this section preceded by "In" or "Packed in" as provided in paragraph (a)(3) of this section and, in the case of raspberries other than red raspberries provided for in paragraph (a)(2) of this section, the name of such packing medium and the color of such raspberry shall be included as part of the name or in close proximity to the name of the food. When the packing medium is prepared with a sweetener(s) which imparts a taste, flavor, or other characteristic to the finished food in addition to sweetness, the name of the packing medium shall be accompanied by the name of such sweetener(s), as for example in the case of a mixture of brown sugar and honey, an appropriate statement would be "

sirup of brown sugar and honey", the blank to be filled in with the word "light", "heavy", or "extra heavy" as the case may be. When the liquid portion of the packing media provided for in paragraph (a)(3) (i) and (ii) of this section consists of fruit juice(s), such juice(s) shall be designated in the name of the packing medium as:

(*a*) In the cases of a single fruit juice, the name of the juice shall be used in lieu of the word "fruit";

(*b*) In the case of a combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium, or be declared on the label as specified in paragraph (a)(3) of this section; and

(*c*) In the case of a single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (a)(5)(iii) of this section.

(iii) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided in

paragraph (a)(5)(ii)(*b*) of this section, such names and the words "from concentrate", as specified in paragraph (a)(5)(ii)(*c*) of this section, shall appear in an ingredient statement pursuant to the requirements of § 101.3(d) of this chapter.

(iv) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) [Reserved]

The FDA proposes that all affected products initially introduced into interstate commerce on or after July 1, 1981 shall comply with the regulation, except as to any provisions that may be stayed by the filing of proper objections.

Interested persons may, on or before November 26, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

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

Dated: September 17, 1979.

Joseph P. Hile,

*Associate Commissioner for Regulatory Affairs.*

[FR Doc. 79-29445 Filed 9-24-79; 8:45 am]

BILLING CODE 4110-03-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Assistant Secretary for Housing—Federal Housing Commissioner

### [24 CFR Part 200]

### [Docket No. R-79-713]

### Introduction—Subpart S—Minimum Property Standards; Revision No. 9 To HUD's Minimum Property Standards

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development.

**ACTION:** Proposed rule.

**SUMMARY:** This notice proposes increased life safety requirements for the HUD Minimum Property Standards (MPS) for Multifamily Dwellings 4910.1 and Care-Type Housing 4920.1.

**DATES:** Comments must be received on or before November 26, 1979.

**ADDRESS:** Comments should be addressed to the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW. Washington, D.C. 20410. Copies of any comments received will be available for examination during business hours at this address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard A. Gray, Director, Minimum Property Standards Division, Office of Architecture and Engineering Standards, Department of Housing and Urban Development, Washington, D.C. 20410, telephone (202) 755–6590.

**SUPPLEMENTARY INFORMATION:** HUD Minimum Property Standards (MPS) are published in handbooks: MPS for One- and Two-Family Dwellings 4900.1, MPS for Multifamily Dwellings 4910.1, and MPS for Care-Type Housing 4920.1. The MPS are incorporated by reference into 24 CFR 200.927. All substantive changes in the MPS are required by 24 CFR 200.933 to be published in the **Federal Register** using the same procedure as for the publication of regulations. The MPS for which these changes are proposed are available for examination in all HUD Field Offices and in Room 6170 of Headquarters at the above address during business hours.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

In the proposed changes, new material is enclosed in arrows and deleted material is enclosed in brackets. Existing MPS requirements not changed here are to remain unchanged.

The following are proposed technical changes to the MPS for multifamily housing 4910.1.

Section 401–2.5 *Facilities for trash and garbage disposal.*

a. Provide for the temporary sanitary storage of trash and garbage and for its subsequent disposal or removal.

b. When trash chutes are installed, provide at least one hopper in a separate room on each floor in buildings more than 3 stories in height.]

►b.◄ Design and construction of incinerators and trash chutes shall be of appropriate size and type and in accordance with NFPA Standard No. 82, Incinerators and Rubbish Handling. Each trash chute hopper shall be located in a room of not less than 20 sq ft.

►c.◄ Incinerators shall be designed and equipped to control stack emission to levels below maximum prescribed limits of governing air pollution regulations.

Reason: Deleted paragraph conflicts with succeeding paragraph.

Section 402–4.5 *Maximum lengths.*

a. In corridors affording access to ►enclosed◄ stairways ►(exists)◄ or horizontal exits [in two directions], the distance between a living unit entrance and ►one of the◄ [a stairway or horizontal] exits shall not exceed 100 ft measuring from the center lines of the doorways. This distance may be increased to 150 ft where buildings ►are equipped throughout with an◄ [is protected by] automatic sprinklers ►fire extinguishing system. As a max. the first 35 ft of a corridor measuring from the center line of the farthest living unit entrance doorway may afford access in only one direction as a part of the above dimensions to exits. See 405–6.2.◄

[b. In dead-end corridors affording access in only one direction to a required exit, the distance between a living unit entrance and the exit shall not exceed 35 ft measuring from the center lines of the doorways.]

Reason: Clarification.

Section 402–6.1.

Stairways and landings shall provide for safe ascent and descent under normal and emergency conditions and for the transport of furniture and equipment. ►All public stairways shall be enclosed in accordance with Section 405.◄

Reason: Clarification.

Section 402–6.2.

Public stairways shall be designed in accordance with the criteria of Table 4–2.1 [and NFPA 101 Life Safety Code.]

Reason: Reference to NFPA 101 is redundant and confusing.

Section 405–2 *Types of construction.*

All residential buildings shall be classified into one of the following construction types:

Type 1—Fire Resistive ►Construction◄

Type 2—►Protected◄ Noncombustible ►Construction◄ Subtypes: 2a and 2b

Type 3—[Exterior Protected] ►Protected Ordinary Construction◄ Subtypes: 3a and 3b

Type 4—►Protected◄ Wood Frame ►Construction◄

See Appendix A for definitions of each construction type.

Reason: The revised designations are more descriptive of the actual construction.

Section 405–3 *Mixed types of construction.*

[Where more than one type of construction is used in a building, the following limitations shall apply:]

[Type 1 construction shall be supported only by Type 1 construction. Type 2 construction shall be supported only by Type

1 or 2 construction. Type 3 construction shall be supported only by Type 1, 2 or 3 construction.]

►Lower fire resistance types of construction may only be erected on higher fire resistance types of construction and the entire building shall then be subject to the restrictions of the lowest classification used in the building.◄

Reason: Clarification.

Section 405–4 *Fire resistance requirements.*

The fire resistance of the walls, floors, roofs, etc. shall meet provisions of Table 4–5.1. Fire resistance ratings shall be determined by ASTM E119 "Standard Methods of Fire Tests of Building Construction and Materials" or by estimation when an ASTM E119 test is available as a bench mark.

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TABLE 4-5.1

FIRE PROTECTION REQUIREMENTS
MINIMUM FIRE RESISTANCE RATINGS IN HOURS BY TYPES OF CONSTRUCTION (1)

| ELEMENTS OF CONSTRUCTION | TYPE 1 | TYPE 2 | | TYPE 3 | | TYPE 4 |
|---|---|---|---|---|---|---|
| | NC | 2a NC | 2b NC | 3a | 3b | C |
| EXTERIOR WALLS | | | | | | |
| Bearing | | | | | | |
| Under 30 ft separation | 3 | 2 | 1 | 2NC | 2NC | 1 |
| 30 ft and over separation | 3 | 2 | 1 | 2NC | 1NC | 1 |
| Non-bearing | | | | | | |
| Under 10 ft separation | 2 | 1 | 1 | 2NC | 2NC | 1 |
| 10 ft to 30 ft separation | 1 | 1 | 3/4 | 1NC | 1NC | 3/4 |
| Over 30 ft separation | NC | NC | NC | NC | NC | C |
| INTERIOR WALLS AND PARTITIONS | | | | | | |
| Fire, and lot-line walls | 2 | 2 | 2 | 2NC | 2NC | 2 |
| Bearing | 3 | 1 | 1 | 2NC | 1C | 1 |
| Non-bearing | NC(5) | NC(5) | NC(5) | C | C | C |
| Enclosure of public stairways, elevator shafts, etc. (3) | 2 | 2 | 1(12) | NC(2) | 1C(12) | 1 |
| Partitions separating living units and enclosing public corridors | 1 | 1 | 1 | NC(2) | 1C | 1 |
| COLUMNS, BEAMS, GIRDERS, MAIN MEMBERS | 3(12) | 2 | 1 | 2NC | 1C(6) | 1 |
| FLOOR/CEILING ASSEMBLIES(10) | 2 | 1 | 1 | 1C | 1C(6) | 1 |
| ROOF/CEILING ACCEMBLIES (4) | 1 1/2 | 1(5) | 3/4(5) | 1C | 1C(6) | 3/4 |
| WALLS, FLOORS AND CEILINGS | | | | | | |
| 1. Of lobbies and vestibules between exit stairways and exterior | 2 | 2 | 1 | 2NC | 1C | 1 |
| 2. Separating commercial from residential | 2 | 2 | 2 | 2NC | 2NC | 2NC |
| 3. Enclosing service spaces (9) | 1 | 1 | 1 | 1NC | 1C | 1 |
| 4. Enclosing tenant general storage area | 1 | 1 | 1 | 1C | 1C | 1 |
| 5. Separating garage from residential | | | | | | |
| For 1 to 4 cars | 1 | 1 | 1 | 1C | 1C | 1 |
| For more than 4 cars | 2 | 2 | 2 | 2NC | 2NC | 2 |
| PUBLIC STAIRWAYS | NC | NC | NC | NC | C(7) | C(7) |
| EXTERIOR STAIRWAYS AND EXTERIOR CORRIDORS | NC | NC | NC | NC | C(8) | C(8) |
| SHAFT ENCLOSURES (VERTICAL CHASE) | 2 | 2 | 1(12) | 1C(12) | NC(12) | 1 |
| CONSTRUCTION ENCLOSING BOILER, HEATER OR INCINERATOR ROOMS, FUEL STORAGE, AND TRASH ROOMS AND CHUTES (11) | 2 | 2 | 2 | 2NC | 2NC | 1 |

BILLING CODE 4210-01-C

Reason: Clarification.

Notes for Table 4–5.1

(1) Abbreviations:

[O designates that no specific fire resistance rating is required. L.U.–Living Unit.]

NC designates noncombustible construction, but no specific fire resistance rating is required ►where none is indicated.◄

C designates that the structural members of the construction may be of combustible materials but no specific fire resistance rating is required ►where none is indicated.◄

Reason: Clarification.

[(2) In type 3a construction the corridor walls, floors, and ceilings, partitions enclosing vertical openings, stairways, columns and beams shall be 2 hr noncombustible for structures of 3 or more stories, and 1 hr noncombustible for one or 2 stories.]

►(2) Construction enclosing corridors and vertical openings (stairways and elevator shafts) shall be 2 hr noncombustible for structures 4 stories or more in height and 1 hr noncombustible for structures 3 stories or less in height.◄

Reason: One hr fire resistant corridor and stair enclosure is adequate for a three story building.

(3) In buildings of types 1, 2a and 3a construction not more than 3 stories in height, [and having not more than 12 living units within a fire area,] exit enclosures may have a fire resistive rating of not less than one hr.

Reason: Same as for note (2) above.

(4) Roof construction with ventilated attic needs to have only ceiling assemblies with a finish rating of at least 25 minutes.

(5) The use of fire-retardant treated wood is acceptable for non-load bearing vertical construction and for roof assemblies including purlins and decking where access ►stairs◄ to the roof are not provided.

Reason: Clarification

(6) In type 3b construction when exposed heavy timber is used, the following minimum sizes shall be used:

| Component | Supporting floors (inches) | Supporting roofs (inches) |
|---|---|---|
| Columns | 8 x 8 nominal | 8 x 6 nominal |
| Beams and girders | 6 x 10 nominal | 4 x 6 nominal |
| Floors and roof decks | 4 nominal | 2 nominal or 1 1/8 plywood with exterior glue |

(7) In type 3b buildings more than 3 stories and in type 4 buildings more than two stories having a single exit, interior stairways shall be of noncombustible materials.

(8) [In type 3b and 4 buildings not more than 2 stories in height exterior stairs and exterior corridors may be combustible.]

►For buildings 3 or more stories in height construction shall be noncombustible or fire retardant treated wood.◄

Reason: Change provides an alternate use of materials.

(9) Service spaces are paint, carpentry or maintenance shops and other spaces where flammable materials are stored.

(10) Floor/ceiling assemblies within a two story living unit may have a 1/3 hr fire resistance rating, where limited to one living unit in building height, and walls separating units are at least 1½ hr rating.

(11) Individual living unit heater rooms not included in this requirement.►For buildings not more than 3 stories in height, construction may have a fire resistance of one hr and in types 3a and 3b may be protected combustible. Trash chutes shall be constructed in accordance with NFPA 82.◄

Reason: Change is in conformance with NFPA standards.

►(12) 2 hr for buildings 4 stories or more in height.◄

Reason: Same as note (11).

Section 405–5.2 ►*Smoke compartments* ◄.

a. For buildings containing more than 8 living units per floor, ►the corridors on◄ each floor shall be divided into at least two approximately equal smoke compartments by a one hr fire-rated wall containing ¾ hr fire doors ►(smoke barrier)◄ with closer and ►automatic release◄ holder activated by a smoke detector, except that compartmentation is not required where buildings are equipped throughout with an automatic sprinkler fire extinguishing system. See 402–9.2 for location of elevators.

b. ►The distance between a living unit entrance and smoke barrier shall not exceed 150 ft. measuring from the center lines of the doorways.◄

Reason: Clarification and to limit the distance to smoke compartment doors for buildings with unlimited areas such as Type I construction.

Section 405–6.1 *General.*

b. All means of egress shall provide a continuous and unobstructed path of travel from any point in the building to a public way. ►All exit stairways shall terminate directly to the outside or at an exit discharge both leading to a public way.◄

Reason: Clarification.

Section 405–6.2 *Number of exits.*

a. Every living unit shall have access to at least 2 separate exits which are remote from each other and are reached by travel in different directions, except that a common path of travel is permitted under certain conditions, see 402–4.5 and 405–6.3.

b. ►A horizontal exit through a firewall may comprise not more than fifty percent of the required exits in a fire area.◄

Reason: Clarification.

Section 405–6.3 *Conditions Where a Single Exit is Acceptable (Except for item (a) below, a single exit is not acceptable in housing for the elderly δor handicappedγ).*

a. A living unit, which has an exit directly to the street or yard at ground level or by way of an exterior stairway ►when protected from snow and ice◄ or an enclosed stairway with fire resistance rating of 1 hr or more serving that living unit only and not communicating with any floor below the floor of exit discharge or other area not a part of the living unit served.

b. A one story building containing a maximum of 8 living units.

[c. A 2 story building containing a maximum of 8 living units and not more than 4 units per floor with one hr fire resistance enclosed stairway immediately accessible to all living units.]

Reason: Deleted paragraph is redundant with succeeding paragraph.

[d] ►c◄. A 3 or 4 story building having not more than 4 living units per floor with a smokeproof tower, ►or an exterior stairway separated by one hr fire resistant construction when protected from snow and ice◄ or a fire resistive enclosed stairway with a 2 hr rating for a four-story building and a one hr rating for a three or less story building immediately accessible ►(not more than 20 ft distance from living unit door to stairway)◄ to all living units.

Reason: Exterior stairs are one of the safest means of escape during a fire and should be allowed.

Section 405–6.4 *Access to the roof.*

In buildings of three ►four◄ or more stories in height and having roof slopes of less than 20 degrees, a stairway or stair ladder ►and roof scuttle located in the stairwell◄ shall provide access to the roof. [except in three-story buildings access may be by scuttle located in a public area.]

Reason: To allow alternate methods of access.

Section 405–6.5 *Door opening ratings.*

a. The fire resistance of a wall opening requiring a fire-rated door shall not be less than that shown in Table 4–5.3.

TABLE 4-5.3

MIN. FIRE RESISTANCE OF INTERIOR DOORS (2)

| Location | Rating (hr) | Max. Temp. Rise/30 Min. | Rated Frame and Hardware |
|---|---|---|---|
| 2 hr fire wall | 1 1/2 | 450 F | Yes |
| 2 hr stair enclosure | 1 1/2 | 450 F | Yes |
| 1 hr stair enclosure | 1 | 450 F | Yes |
| Furnace, trash room or other hazardous areas | 1 1/2 | — | Yes |
| 1 hr rated wall | 3/4 (1) | — | Yes (1) |

Reason: To be consistent with NFPA standards.

**Notes to Table 4–5.3**

(1) Doors to living units from public corridors may have a 20-minute rating [with a max. temperature rise of 450 F/20 minutes] and shall be installed to minimize the passage of smoke. ►Frames may be nonrated 18 gauge steel or fire retardant wood and metal hardware may be non-rated for 20-minute doors.◄

Reason: Temperature rise and rated frame and hardware for 20-minute door are not considered necessary for life safety.

(2) Where a building is equipped throughout with an automatic sprinkler [protection] ►Fire extinguishing◄ system, doors may have a 20-minute fire resistance rating except at openings in fire walls.

Section 405–8.3 *Flame spread tests.*

Flame spread ratings for wall ►and◄ ceiling [and floor] surfaces shall be determined by an independent testing laboratory or recognized association laboratory in accordance with ASTM E84. ASTM E162 may be used for kitchen cabinets and similar items. Floor finish materials [may] ►shall◄ have a flame spread [index] ►(Critical Radiant Flux)◄ of not [more] ►less◄ than shown in Table 4–5.4 when tested in accordance with [UL Standard No. 992] ►NFPA 253 Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source..◄

Reason: Clarification.

BILLING CODE 4210-01-M

TABLE 4-5.4

FLAME SPREAD RATING AND SMOKE GENERATED LIMITATIONS OF INTERIOR FINISHES
(1) (4) (5) (6)

| Location Within Building | Surface Flame Spread Rating-Max. Range | | Max. Optical Smoke Density | | |
|---|---|---|---|---|---|
| | Walls & Ceil. | Floors | Walls | Ceil. | Floors |
| Enclosed stairways and other Vertical openings | 0-25 | [0.22] | Reserved - pending evaluation of test procedures | | |
| Corridors used for exit access (4) | 0-75 | [0.22] | | | |
| Within living unit except for kitchen (3) | 0-200 | | | | |
| Kitchen space within living unit (2) | 0-75 | | | | |
| Public rooms (dining rooms, etc.) | 0-75 | | | | |
| Lobbies and corridors between exit stairway and exterior (4) | 0-25 | [0.22] | | | |
| Service rooms, enclosing heat producing or other mechanical equipment, and all other fire hazardous areas | 0-25 | [0.45] | | | |

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**Notes**

Abbreviations: Ceil=Ceiling

[ ]=►Critical Radiant Flux watts $cm^2$◄

(1) Doors (except closet doors exceeding 6 ft in width), trim around openings, baseboards, moldings and chair rails may be excluded in the calculations of flame spread limitations.

(2) The flame spread rating of combustible kitchen cabinet doors, exposed end panels and bottoms and counter tops shall not exceed 200. Cabinet frame rails, stiles, mullions and toe strips are exempted.

(3) Flame spread rating of walls and ceiling in housing for elderly shall not exceed 75.

(4) ►Critical radiant flux 0.45 in housing for the elderly.◄

(5) Draperies when provided shall be flameproof in accordance with NFPA Standard No. 701 ►large and small scale tests◄ "Flameproof Textiles."

(6) Where ►complete◄ automatic sprinkler ►fire extinguishing system◄ [protection] is provided ►throughout the building◄ the flame spread ratings may be increased in the following amounts: 0–25 to 0–75, and 0–75 to 0–200 ►and flooring materials need not met flame spread◄ requirements.

Reason: This incorporates new fire test developed especially for flooring material. Notes 5 and 6 clarified.

Section 405–14.1 *Fire alarm systems.*

a. Every [building of] ►exit arrangement serving more than◄ eight [or more] living units ►or buildings of 3 stories or more in height◄ [in which each unit does not have direct access to the exterior at grade level,] shall be equipped with an manual fire alarm system. Each floor shall have at least one or more manual fire alarm boxes and sounding devices at visible points in the natural paths of escape from fire and near each exit. [from a fire compartment.]

b. ►Exterior and interior corridor type◄ buildings 4 or more stories in height shall have an alarm system which transmits an alarm automatically to the fire department which is legally committed to serve the area in which the building is located, or to a 24 hr monitoring service inside or outside the building. An annuciator which indicates the fire floor shall be located as a central point within the building.

c. Buildings [eight or more stories in height shall] ►may◄ have a zoned noncoded alarm system that sound an alarm on the fire floor, floor below the fire floor and the floor above the fire floor and provision at central monitoring point to activate a general fire alarm.

d. All fire alarm systems shall be electrically supervised.

e. [Not less than one automatic] Smoke detectors, which may be a single ►or multiple◄ alarm device, shall be installed in each living unit near the sleeping areas ►on each floor and on each additional floor of the living unit.◄

f. All smoke detectors that control fire doors ►or elevators◄ shall automatically initiate a general fire alarm when activated.

Reason: Clarification

Section 405–14.2.

a. For all buildings four stories or more in height, an automatic sprinkler protection system shall be provided in all corridors, [public spaces, service areas and utility areas] ►common spaces used by occupants such as dining rooms and lounges, service and utility areas such as maintenance shops, laundries, central boiler rooms and trash collection rooms.◄

Reason: Clarification

Section 405–14.3.

d. [Installation of fire alarm and extinguishing systems shall be in accordance with NFPA No. 72A for fire alarm systems and NFPA No. 13 for sprinkler systems. Spacing of sprinkler heads in corridors shall be positioned 15 ft on max. centers.]

►Installation of fire alarm and extinguishing systems shall be in accordance with NFPA No. 72 A, B, C, D, or E as applicable and NFPA No. 13 for sprinkler systems in light hazard occupancies. When an automatic sprinkler fire extinguishing system is not provided throughout the building, the corridor sprinkler system required in 405–14.2a shall be designed to discharge water at a flow rate of at least 15 gallons per minute for 7/16 in. heads or at least 25 gallons per minute for ½ in. heads. Sprinkler heads shall be installed not more than 24 in. from the center line of each living unit door and in the center of the corridor. One head may serve opposite doors. The system shall be hydraulically designed for operation of at least three heads. Min. water supply shall be in accordance with Table 2–2.1(b) of NFPA No. 13.◄

Reason: Incorporation of criteria established by HUD sponsored research at NBS.

►Section 615–10 *Incinerators.*

Construction and installation of incinerators shall comply with NFPA Standard No. 82. Federal and local air pollution standards and shall be structurally safe, durable, and suitable for the intended use.◄

Reason: Construction of incinerators was not covered previously.

**Appendix A—Definitions**

Construction Classification: A classification of buildings into types of construction which is based upon the fire properties of walls, floor/ceilings, roof/ceilings and other elements.

Type 1, Fire-resistive ►Construction. That type of construction in which the walls, partitions, columns, floor/ceiling and roof/ceiling assemblies◄ and other structural members with fire resistance to withstand the effects of a fire and prevent its spread from one story to another. ►Fire resistive ratings shall not be less than those contained in Tables 4–5.1 and 4–5.3 of this standard.◄

Type 2, ►Protected◄ Noncombustible ►Construction.◄ That type of construction in which the walls, ►partitions,◄ columns, ►beams,◄ floor/►ceiling◄ and roof/►ceiling assemblies◄ and other structural members are noncombustible but which does not qualify a Type 1, fire resistive construction. ►The structure shall withstand the effects of a fire and prevent its spread from one story to another. Fire resistive ratings shall not be less than those contained in Tables 4–5.1 and 4–5.3 of this Standard.◄ Type 2 construction is further classified as Type 2a and Type 2b which have less fire resistance for certain members.

Type 3, [Exterior] Protected ►Ordinary◄ Construction. That type of construction in which the exterior walls are of noncombustible construction and which are structurally stable under fire conditions and in which the interior structural members, ►floor/ceiling◄ and roof/►ceiling assemblies◄ are ►wholly or partly◄ of protected combustible construction, or of unprotected heavy timber construction. ►The structure shall withstand the effects of a fire and prevent its spread from one story to another.◄ The construction shall meet fire resistive ratings not less than those contained in Table 4–5.1 and 4–5.3 of this standard. Type 3 construction is divided into two subtypes as follows:

Type 3a. [Exterior] Protected ►ordinary construction◄ in which the interior exitways, columns, beams and bearing walls are noncombustible in combination with the floor/►ceiling◄ and roof/►ceiling assemblies◄ and non-loadbearing partitions of combustible construction.

Type 3b. [Exterior] Protected ►ordinary construction◄ in which the interior structural members are of protected combustible materials, or of heavy timber unprotected construction.

Type 4, ►Protected◄ Wood Frame ►Construction.◄ That type of construction in which the exterior walls, partitions, floor/►ceiling and◄ roof/►ceiling assemblies◄ and other structural members are wholly or partly of wood or other ►protected◄ combustible materials ►with fire resistive ratings not less than those contained in Table 4–5.1 of this standard.◄ The structure shall retard the spread of fire from one story to another.

Horizontal Exit. A way of passage on the same level, from one building or fire area to an area of refuge in another building, or [if in the same building]►fire area, separated by a fire wall,◄ [party wall, or fire partition affording fire safety]►and a pair of fire doors that swing in opposite directions.◄

Reason: Clarification.

The following are proposed technical changes to the MPS for care-type housing 4920.1

Section 405–3 *Mixed types of construction.*

[Type 1 construction shall be supported only by Type 1 construction. Type 2 construction shall be supported only by Types 1 or 2 construction. Type 3 construction shall be supported only by Types 1, 2 or 3 construction.]

►Lower fire resistance types of construction may only be erected on higher fire resistance types of construction and the entire building shall then be subject to the restrictions of the lowest classification used in the building.◄

Section 405–5.2 *Smoke compartments.*

a. Each floor ►used by patients for sleeping or treatment and any floor◄ having an occupant load of 50 or more persons shall be divided into at least 2 smoke

compartments by a one hr fire-rated wall containing a pair of ¾ hr fire-rated doors with closers and hold open devices. See 402–3.7 and 405–14.3c.

Reason: To provide a safe refuge for patients under fire conditions regardless of number of patients housed.

Section 405–6.1.

b. All means of egress shall provide a continuous and unobstructed way of travel from any point in the building to a public way. ►All exit stairways shall terminate directly to the outside or at an exit discharge both leading to a public way.◄

Reason: Clarification.

Section 405–6.2.

c. ►A horizontal exit through a firewall may comprise not more then two-thirds of the required exits in a fire area.◄

Reason: Clarification.

Section 405.6.3 *Access to the roof.*

[In buildings more than three stories in height, with roofs having a slope of less than 20 degrees, a stairway shall extend through and provide access to the roof.]◄

►In buildings of four or more stories in height and having roof slopes of less than 20 degrees, a stairway or ladder and roof scuttle located in the stairwell shall provide access to the roof.◄

Reason: To allow alternate methods of access.

Section 405–5.4.

**Note to Table 4–5.3 Minimum Fire Resistance of Doors**

(1) Doors to patient rooms from corridors may have a 20 minute rating [with a mix. temperature rise of 450 F/20 minutes], and shall be installed to minimize the passage of smoke. ►Frames may be non-rated 18 guage steel and metal hardware may be non-rated.◄

Reason: Temperature rise and rated frame and hardware for 20 minute door are not considered necessary for life safety.

Section 405–8.3 *Flame spread tests.*

Flame spread ratings ►for wall and ceiling surfaces◄ shall be determined by an independent testing laboratory or recognized association laboratory in accordance with ASTM E84. ►Floor finish materials shall have a flame spread (Critical Radiant Flux) of not less than shown in Table 4–5.4 when tested in accordance with NFPA 253 Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source.◄

TABLE 4-5.4

Flame Spread Rating and Smoke Generated Limitations of Interior Finishes (1) (2)

| Location Within Building | Surface Flame Spread Rating-Max. Range | | Max. Optical Smoke Generated | | |
|---|---|---|---|---|---|
| | Walls, Ceil. | Floors | Walls | Ceil. | Floors |
| Within Patient's Rooms | 0-75 | | Reserved | | |
| All Other Areas | 0-25 | ▶ [0.45] (3)◄ | | | |

Notes

Abbreviations: Ceil.=Ceiling

►[]=Critical Radiant Flux watts/cm²◄

(1) Trim and other incidential interior finish not in excess of 10 percent of the aggregate wall and ceiling areas of any room or space may have a flame spread of 0–200. Closet doors exceeding 6 ft in width shall comply with wall and ceiling flame spread limitations.

(2) Draperies ►and cubicle curtains◄ shall ►be noncombustible or be rendered◄ flameproof ►and shall pass both large and small scale tests◄ in accordance with NFPA Standards No. 701 Tests—Flame-Resistant Textiles and Films.

(3) ►Exit access corridors, exit stair enclosures and exit discharge areas only.◄

Reason: This incorporates new fire test developed especially for flooring material.

(Sec. 7 (d) of the Department of HUD Act (42 U.S.C. 3535 (d).)

Issued at Washington, D.C., September 14, 1979.

**Lawrence B. Simons,**

*Assistant Secretary for Housing-Federal Housing Commissioner.*

[FR Doc. 79-29512 Filed 9-24-79; 8:45 am]

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## DEPARTMENT OF LABOR

## Pension and Welfare Benefit Programs

## [29 CFR Part 2520]

## Proposed Regulations Relating to Reporting and Disclosure Under Title I of the Employee Retirement Income Security Act of 1974

**AGENCY:** U.S. Department of Labor.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** This document contains a proposed regulation that describes an alternative method of compliance with the reporting and disclosure requirements of Part 1 of Title I of the Employee Retirement Income Security Act of 1974 (the Act) for simplified employee pensions (SEPs) created by the use of Internal Revenue Service (IRS) Form 5305–SEP.

**DATES:** Written comments concerning the proposed regulation must be received by the Department of Labor (the Department) on or before November 26, 1979. It is proposed that, if adopted, the regulation would be effective immediately upon adoption.

**ADDRESS:** Interested persons are invited to submit written data, views or arguments (at least six copies) concerning any part or all of the proposed regulation to "Section § 2520.110a–1, Office of Reporting and Plan Standards, Pension and Welfare Benefit Programs, N–4461, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216." All written submissions will be open for public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

**FOR FURTHER INFORMATION CONTACT:** Patricia Nitchie, Division of Coverage, Office of Reporting and Plan Standards, U.S. Department of Labor, Washington, D.C. 20216, (202) 523–8517, or Timothy S. Smith, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20216, (202) 523–6855 (these are not toll free numbers).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the Department has under consideration a proposal to adopt a regulation under Section 110(a) of the Act. The proposed regulation sets forth an alternative method for satisfying the reporting and disclosure requirements of Part 1 of Title I of the Act (Part 1) for certain SEPs that are created by use of IRS Form *5305–SEP, a copy of which is reproduced in Appendix A.*

### A. Background

SEPs are described in section 408(k) of the Internal Revenue Code of 1954 (the Code). That section was added to the Code by section 152 of the Revenue Act of 1978 (Pub. L. 95–600). By use of a SEP, an employer may make contributions directly into the individual retirement accounts or individual retirement annuities (collectively, IRAs) of its employees. If certain conditions set forth in sections 408(k), 219, and 404 of the Code are met, both the employer and the

employees may deduct the amount of those contributions from their income for income tax purposes. By incorporating employee IRAs into an employer funded pension arrangement, Congress intended to provide a type of arrangement that is easier to establish and administer than existing employer maintained pension plans. It specifically intended that less reporting and disclosure would be required in the case of SEPs than in the case of other pension plans.[1]

It appears that SEPs may, however, at least under some circumstances, be "employee pension benefit plans" as defined in section 3(2) of the Act and, therefore, that they may be subject to the reporting and disclosure provisions of Part 1.[2] Pursuant to the authority contained in section 110 of the Act, however, the Department may prescribe an alternative method for satisfying any requirement of Part 1 with respect to any pension plan or class of pension plans subject to that requirement if it determines:

(1) That the use of the alternative method is consistent with the purposes of Title I and that it provides adequate disclosure to the participants and beneficiaries of the plan, and adequate reporting to the Department.

(2) That the application of that requirement would—

(A) Increase the costs to the plan, or

(B) Impose unreasonable administrative burdens with respect to the operation of the Plan, having regard to the particular characteristics of the plan or type of plan involved; and

(3) That the application of Part 1 would be adverse to the interests of plan participants in the aggregate.

IRAs are subject to certain disclosure requirements prescribed by the IRS. Under IRS Regulation § 1.408–1(d)(4) the trustee or issuer (sponsor) of an IRA is required to furnish the individual by or for whom the IRA is established (the benefited individual) with, or cause him or her to be furnished with, a "disclosure statement." This statement is required to contain certain specified information, including an explanation of (1) statutory requirements pertaining to IRAs, (2) the tax consequence of establishing and maintaining the IRA, and (3) the circumstances and procedures under which the IRA may be revoked; a statement concerning rollovers from one IRA to another; and certain financial disclosures. In addition, Internal Revenue News Release 1873 (August 17, 1977) states that the sponsors of IRAs "will furnish IRA participants with a full account" of their IRAs following the end of each participant's tax year.

IRS Form *5305–SEP* is used to establish a model SEP. It contains a Contribution Agreement, which must be filled out by the employer establishing the SEP, General Information and Guidelines concerning the model SEP, and SEP–IRA Questions and Answers, which provide additional information of interest to SEP participants. In order to establish an SEP under IRS Form *5305–SEP* (a "Model SEP") properly, copies of the unmodified Form completed by the employer must be provided to all employees. In addition, under the Model SEP employers must inform each employee in writing of the amount of the employer's SEP contribution to the employee's IRA.

It appears that the disclosure requirements imposed by the Model SEP described above provide adequate disclosure to plan participants and beneficiaries and that the application of the reporting and disclosure requirements of Part I to the Model SEPs would increase costs to such plans, and would be adverse to the interests of plan participants in the aggregate. Therefore, the Department is hereby proposing the regulation described below.

**B. Discussion of the Proposed Regulation**

The proposed regulation prescribes an alternative method of compliance with the reporting and disclosure requirements of Part 1 for the SEPs described above.

Generally, Part 1 requires the administrator of a plan[3] to furnish each plan participant and beneficiary with, among other things, a summary plan description and summary annual reports and to make available to plan participants and beneficiaries copies of various documents relating to the plan. Part 1 also requires the plan administrator to file certain documents with the Secretary of Labor, including a plan description, a summary plan description and annual reports.

The proposed regulation sets forth the requirements that must be satisfied under this alternative method of compliance. For the most part, these requirements are the same as IRS reporting and disclosure requirements relating to Model SEPs. It is intended that these requirements, in conjunction with the reporting and disclosure required of trustees and issuers of IRAs, will provide participants in such SEPs with adequate information concerning their SEPs, including a description of their SEPs and of the IRAs into which contributions are, or will be, made; explanations of the participants' rights with respect to their SEPs and IRAs; and reports concerning employer contributions to their IRAs. At the same time, the Department believes that this alternative method of compliance is consistent with Congressional intent concerning SEPs in that it minimizes administrative burdens on employers establishing and maintaining the Model SEPs.

It should be noted that, under the alternative method of compliance, no plan descriptions or reports are to be filed with the Department. The Department believes that the filing of plan descriptions is not necessary because all SEPs covered by the alternative method of compliance must be established by use of an unmodified IRS Form *5305–SEP*. The instruments under which all such SEPs are established and operated will, therefore, be identical. The Department also believes that the filing of reports with the Department is not necessary because, among other things, contributions under the Model SEPs are to be deposited in IRAs that are qualified by the IRS [4] and whose sponsors are regulated by various federal and state agencies.

Requirements (a) and (b) of the proposed alternative method of compliance are parallel to requirements set forth in IRS Form *5305–SEP*. Requirement (c) is an additional disclosure requirement that applies only to those limited situations in which (1) the employer establishing and maintaining the SEP selects the IRAs to

[1] See section 19 of H.R. Report No. 95–1800, 95 Cong., 2nd Sess. 212 (1978) and section IV G.2. of Senate Report No. 95–1263, 95 Cong., 2nd Sess. 91 (1978).

[2] Section 3(2) of the Act defines the terms "employee pension benefit plan" and "pension plan" to mean any plan, fund, or program which was or is established or maintained by an employer or by an employee organization, or by both, to the extent that by its express terms or as a result of surrounding circumstances such plan, fund, or program—(A) provides retirement income to employees, or (B) results in a deferral of income by employees for periods extending to the termination of covered employment or beyond, regardless of the method of calculating the contributions made to the plan, the method of calculating the benefits under the plan or the method of distributing the benefits from the plan.

[3] Section 3(16) of the Act defines the term "administrator" to mean "the person specifically so designated by the terms of the instrument under which the plan is operated [or] if an administrator is not so designated, the plan sponsor . . . ." Since IRS Form *5305–SEP* does not provide for the designation of a plan administrator, the plan sponsor (in this case the employer establishing the Modes SEP and who is a party to the contribution agreement) is the administrator of the Model SEP.

[4] IRAs that are (1) IRS model IRAs executed on IRS forms, or (2) master or prototype IRAs upon which a favorable opinion letter has been issued by the IRS.

be used in connection with the SEP or influences its employees' choice of such IRAs, and (2) the IRAs so selected or chosen impose restrictions on a participant's ability to withdraw funds (other than restrictions required by law). This requirement is not applicable if an employer merely compiles information concerning various IRAs in order to facilitiate its employees' choice of IRAs.

The Department believes that requirement (c) is necessary because an IRA participant's power to withdraw funds from the IRA is essential to his or her ability to make a tax-free rollover from the IRA to another IRA. If the ability to make a rollover is restricted under a particular IRA, those employees who are influenced by their employer in their choice of IRAs (or who have no choice) should be aware of any such restrictions and of the fact that other IRAs may not have such restrictions.

It should be noted that, in order for requirement (1) to be satisfied, eligible employees must be furnished with a copy of the entire IRS Form *5305–SEP*, including SEP–IRA Questions and Answers, as well as the completed Contribution Agreement and the General Information and Guidelines.

The Department has determined that this proposed regulation is not a signficant regulation within the meaning of the Department's guidelines for improving government regulations (44 FR 5570, January 26, 1979).

The Department intends to make this proposed regulation effective immediately upon its adoption as a final regulation because it will grant an exemption which relieves administrators of the Model SEPs from various reporting and disclosure requirements of Part 1 to which they may otherwise be subject[5] and some of which call for compliance within 120 days after the plan becomes subject to the Act.

### C. Drafting Information

The principal author of this proposed regulation was Timothy Smith of the Plan Benefits Security Division, Office of the Solicitor, Department of Labor. However, other persons in the Department of Labor participated in developing the proposed regulation, both on matters of substance and style.

### D. Proposed Regulation

Accordingly, pursuant to the authority provided in sections 110 and 505 of the Act, it is proposed to amend Part 2520 of Chapter XXV of Title 29 of the Code of Federal Regulations by adding the following new subpart and section.

[5] See 5 U.S.C. 553(d)(1).

## Subpart G—Alternative Methods of Compliance

### § 2520.110a–1 Model simplified employee pension—IRS Form 5305–SEP.

In the case of a simplified employee pension (SEP) described in section 408(k) of the Internal Revenue Code of 1954, as amended (the Code) that is created by use without modification of Internal Revenue Service (IRS) Form *5305–SEP*, the provisions of this section are prescribed as an alternative method of compliance with the reporting and disclosure requirements set forth in Part 1 of Title I of the Employee Retirement Income Security Act of 1974 (Act).

(a) At the time an employee becomes eligible to participate in the SEP (whether at the creation of the SEP or thereafter), the administrator of the SEP (generally the employer establishing and maintaining the SEP) must furnish the employee with a copy of the completed and unmodified IRS Form *5305–SEP* used to create the SEP, including (1) the completed Contribution Agreement, (2) the General Information and Guidelines, and (3) the Simplified Employee Pension—Individual Retirement Account (SEP–IRA) Questions and Answers.

(b) Following the end of each calendar year the administrator of the SEP must notify each participant in the SEP in writing of any employer contributions made under the Contribution Agreement to the participant's individual retirement account or individual retirement annuity (IRA) for that year.

(c) If the employer establishing and maintaining the SEP selects, recommends, or in any other way influences employees to choose a particular IRA or type of IRA into which contributions under the SEP will be made, and that IRA or type of IRA places restrictions on a participant's power to withdraw funds (other than restrictions imposed by law), the administrator must give to each employee, in writing, at the time such employee becomes eligible to participate in the SEP, a clear explanation of those restrictions and a statement to the effect that other IRAs may not have such restrictions.

Signed at Washington, D.C. this 21st day of September 1979.

**Ian D. Lanoff,**

*Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, United States Department of Labor.*

BILLING CODE 4510–29–M

Appendix A—IRS Form 5305–SEP

Form **5305-SEP**
(August 1979)
Department of the Treasury
Internal Revenue Service

**Simplified Employee Pension-Individual Retirement Accounts Contribution Agreement**
(Under Section 408(k) of the Internal Revenue Code)

Do NOT File with Internal Revenue Service

**Resolution to Provide for Contribution to Individual Retirement Accounts or Individual Retirement Annuities:**

WHEREAS, ☐ I am ☐ we are doing business under the name of ▶ _____ (hereinafter Employer) and,

WHEREAS, Employer agrees to provide, under the terms of section 408(k) of the Internal Revenue Code of 1954 and the instructions to this IRS Form 5305–SEP, for discretionary contributions in each calendar year to the Individual Retirement Accounts or Individual Retirement Annuities (IRA's) of all its eligible employees (☐ including ☐ excluding employees covered under a collective bargaining agreement) who are at least ▶ _____ years of age (not over 25) and worked in no less than ▶ _____ years (not to exceed three) of the immediately preceding five calendar years for Employer;

NOW THEREFORE be it resolved that such discretionary contributions as Employer may make on behalf of each eligible employee will be the same percentage of total compensation for every employee (excluding such compensation in excess of $100,000 and the contribution to be made hereunder) except that the contribution on behalf of each employee will be limited to the lesser of 15 percent of compensation or $7,500; and this contribution will be paid to each employee's IRA trustee, custodian or insurance company (for an annuity contract).

The Employer executes this agreement in the manner prescribed by law this ▶ _____ day of ▶ _____, 19____.

Employer ▶ By ▶

## General Information

(References are to the Internal Revenue Code)

Employers who presently maintain any other qualified plan, or who have in the past maintained a defined benefit plan even if now terminated, may not use this form. Nor may an employer validly use this form unless all eligible employees have established an IRA.

Simplified Employee Pensions (SEP) are described in section 408(k) of the Code. In very general terms, a SEP will permit employers to contribute up to $7,500, includible in the employee's gross income, to the employee's Individual Retirement Account or Individual Retirement Annuity (IRA). This form does not create an employer IRA as described under section 408(c). Contributions may only be made to an employee's IRA that is a model IRA executed on an IRS Form or a master or prototype IRA upon which a favorable opinion letter has been issued by IRS. If the contribution is made to the IRA of an employee's spouse, this SEP agreement will not be affected, but the entire contribution will be included in the employee's income, and all or part of the deduction may be disallowed.

THIS FORM IS NOT TO BE FILED WITH IRS. When properly filled out and executed this SEP form constitutes an agreement which will permit the parties to claim the tax benefits afforded by sections 408 and 219, provided that the provisions of such SEP modified IRA (SEP–IRA) are followed. SEP–IRA's created as a result of this agreement may be subject to the reporting and disclosure requirements of Title I of ERISA. However, the Department of Labor is considering adopting an alternative and simplified method of satisfying these requirements which, among other things, would make it unnecessary to file Form 5500 or Form 5500–C provided this entire package (agreement, instructions, and Questions and Answers) is disclosed to all employees. Reports to IRS will be limited to those which the Secretary of the Treasury may require.

When this form is properly executed, the employer is obligated to forward any contributions made to the employee's SEP–IRA fiduciary (whether trustee, custodian, or insurance company) **and include such amounts in the employee's gross income reported on Form W–2. The 1979 W–2 makes no provision for separately designating SEP contributions, so for 1979, employers using this form must inform each employee in writing of the amount of the employer's SEP contribution to the employee's IRA so that the individual may reflect this amount on the individual's 1979 tax return.** To satisfy this requirement an employer may use box 7 of the 1979 Form W–2.

An employer may treat contributions made within the first 3½ months of a calendar year as though made in the prior year, even though a Form W–2 was already issued for the prior year. In that case, an additional Form W–2 must be issued to report the contributions that were not reflected on the prior Form W–2. For example, an employee with compensation of $22,000 which includes a $2,000 SEP–IRA contribution, would receive a 1979 Form W–2 with "$22,000" in boxes 10 and 12* and "$2,000–SEP" in box 7. If the employer later treats an additional $150 contribution made to the empoyee's SEP–IRA in the first 3½ months of 1980 as though made in 1979, an additional Form W–2 would be issued for 1979; "$150" would be reported in boxes 10 and 12*; and "$150–SEP" would be reported in box 7.

The employees include the employer contribution in gross income and take an appropriate deduction on their tax return. The employer deducts all allowable contributions under the terms of section 404(h). Because contributions to SEP–IRA's are completely nonforfeitable, the employee may withdraw funds in such account at any time, although certain withdrawals will result in penalty taxes being assessed.

## Guidelines

**PARTICIPATION.**—Employers must allow any employee who is 25 years old or older, and has performed "service" for the employer in at least three of the immediately preceding five calendar years, to participate under this agreement. For this purpose only, "service" is any interval of time, however short, in which an employee performs any work for his/her employer. All eligible employees must participate. In certain situations employees covered under a collective bargaining agreement and certain non-resident aliens may be excluded under this agreement if they are employees described in sections 410(b)(2)(A) or 410 (b)(2)(C) of the Code.

**CONTRIBUTIONS.**—Calendar year contributions by employers on behalf of each employee are limited to no more than the lesser of $7,500 or 15 percent of total compensation (computed without regard to the SEP–IRA contribution) for that calendar year. For this purpose total compensation for each employee will include:

(a) amounts received for personal services actually rendered as more particularly described under proposed section 1.219–1(c) of the Income Tax Regulations; and
(b) "earned income" as defined under section 401(c)(2) of the Code.

The amount contributed by the employer to the SEP–IRA of an employee is included in the gross income of the employee for income reporting purposes in the calendar year for which the amount is contributed. Contributions for a calendar year must be made on behalf of all employees who have met the participation requirements, whether or not they are still employed at the time such contributions are made. In no case may contributions, or the manner of making contributions discriminate in favor of any employee who is an officer, a ten percent shareholder, a self-employed individual, or is highly compensated. Employer contributions under this SEP–IRA may not be integrated with or offset by employer contributions made under the Federal Insurance Contributions Act (FICA). In addition, an employee who is not a participant in any other qualified plan may contribute no more than the difference between the lesser of $1,500 or 15 percent of the employee's compensation and the employer's contribution.

If the employer's taxable year is the calendar year, employer deductions may be taken for such taxable year, subject to the limits in section 404 of the Code, for contributions made either during the year or not later than April 15th of the following year. If the tax year and calendar year do not coincide, contributions made for a calendar year will only be deductible by the employer for the tax year in which the calendar year ends. Employers using a fiscal year are cautioned that contributions for a calendar year must be made no later than three and one half months after the close of that calendar year.

**EXECUTION.**—This agreement is properly executed when all eligible employees have established an IRA, all blanks on the form have been completed, the form has been used without modification, and the copies have been provided to all employees.

* Pending legislation would eliminate the FICA tax on SEP contributions.

283–469–1

This Simplified Employee Pension, or SEP, is a plan designed to give employers a simplified way to provide contributions toward their employee's retirement income. Under the SEP an employer makes contributions directly to an Individual Retirement Account or Annuity (an IRA) set up by an employee with a bank, an insurance company, or another qualified financial institution.

Although an employer is not required to make any contributions to this SEP–IRA in a given year, if contributions are made, they must be made to the IRA's of all eligible employees, and they must represent the same percentage of each employee's total compensation (excluding compensation in excess of $100,000).

An employee's tax deduction for the employer's contribution to his or her IRA cannot be more than the smaller of $7,500 or 15 percent of the employee's compensation.

The law requires that, with some exceptions, all employees who are at least 25 years old and who have worked for the employer for some period of time in any three of the preceding five calendar years must be eligible to receive contributions. However, a SEP arrangement may have less restrictive eligibility requirements.

For more specific information concerning SEP's and related IRA's, see the "Questions and Answers" and "Contribution Agreement." In addition, the trustees or issuers of IRA's are required to give the owner of an IRA information concerning the operation of that IRA, the income tax consequences of establishing and maintaining an IRA, and certain financial information.

**QUESTIONS AND ANSWERS.—**

1. Q. What is a Simplified Employee Pension, or SEP?

A. A SEP is a new retirement income arrangement under which your employer may contribute any amount each year up to the smaller of $7,500 of 15 percent of your compensation into **your own** Individual Retirement Account (IRA). These new SEP's are available for all employee calendar years beginning **after** December 31, 1978.

Your employer will provide you with a copy of the agreement containing participation requirements and a description of the basis upon which employer contributions may be made to your IRA.

All amounts contributed to your IRA by your employer belong to you, even after you separate from service with that employer.

2. Q. Must my employer contribute to my IRA under the SEP?

A. Whether or not your employer makes a contribution to the SEP is entirely within the employer's discretion. If a contribution is made under the SEP, it must be allocated to all the eligible employees according to the SEP agreement. The Model SEP specifies that the contribution on behalf of each eligible employee will be the same percentage of compensation (excluding compensation higher than $100,000) except that the contribution for any employee may not be more than the smaller of $7,500 or 15 percent of compensation.

3. Q. How much may my employer contribute to my SEP–IRA in any year?

A. Under the Model SEP **(FORM 5305–SEP)** that your employer has adopted, your employer will determine the amount of contribution to be made to your IRA each year. However, the contribution for any year is limited to the smaller of $7,500 or 15 percent of your compensation for that year. The compensation used to determine this limit does not include any amount which is contributed by your employer to your IRA under the SEP. It should be noted, however, that under the agreement there is no requirement that an employer maintain a particular level of contributions and it is possible that for a given year no employer contribution will be made on an employee's behalf. **Also see Question 5.**

4. Q. How do I treat my employer's SEP contributions for my taxes?

A. The amount your employer contributes will be included in your gross income reported on Form W-2. For 1979, although the SEP contribution will not be separately designated on the W–2, your employer must notify you of the contribution amount in writing so that you may reflect this amount on your 1979 tax return. For 1980, and later years, such amounts will be separately stated on your W–2 Form at the end of the year. You will be entitled to an offsetting deduction on your tax return as long as the amount you deduct for contributions to SEP's by all your employers for a year is not more than $7,500 or 15 percent of your compensation for that year, whichever is smaller. Because contributions for a particular calendar year may be made through April 15 following that calendar year, it is possible that your employer may make a contribution that is not reflected on your original W–2. In that case, your employer must provide you with an additional W–2 which includes the amount of such contribution.

5. Q. May I also contribute to my IRA if my employer has a SEP?

A. You **may** be entitled to contribute to your own IRA even though your employer has a SEP. If you would otherwise be eligible to deduct your contribution to an IRA, and your employer contributes less than the smaller of $1,500 or 15 percent of your compensation, you may contribute the difference to your IRA and deduct the amount on your tax return. Contributions in excess of this, or in a year when you are not eligible for an IRA deduction, may result in adverse tax consequences, and are not deductible on your tax return. **Also see Question 12.**

6. Q. Are there any restrictions on the IRA I select to deposit my SEP contributions in?

A. Under the Model SEP that is approved by IRS, contributions must be made to either a Model IRA which is executed on an IRS form or a master or prototype IRA upon which a favorable opinion letter has been issued by the IRS. **Also see Question 7.**

7. Q. My spouse and I both have IRA's. Can my employer contribute the SEP contribution to my spouse's IRA?

A. Although there is no prohibition against this, it may result in adverse tax consequences. Your employer's entire contribution will be included in your income for that year, but all or part of the offsetting deduction may be disallowed. A transaction of this sort could result in complex tax consequences requiring professional advice.

8. Q. What if I don't want a SEP–IRA?

A. Your employer may require that you become a participant in such an arrangement as a condition of employment. However, if the employer does not require all eligible employees to become participants and an eligible employee elects not to participate, all other employees of the same employer are prohibited from entering into a SEP–IRA arrangement with that employer. If one or more eligible employees do not participate and the employer attempts to establish a SEP–IRA agreement with the remaining employees, the resulting arrangement will not result in any tax advantage and may in fact result in adverse tax consequences to the participating employees.

9. Q. Can I move funds from my SEP–IRA to another tax-sheltered IRA or retirement bond?

A. Yes; it is permissible for you to withdraw, or receive, funds from your SEP–IRA, and no more than 60 days later, place such funds in another IRA, SEP–IRA, or retirement bond. This is called a "rollover" and may not be done more frequently than at one year intervals without penalty. However, there are no restrictions on the number of times you may make "transfers" if you arrange to have such funds transferred between the trustees, so that you never have possession.

10. Q. What happens if I withdraw my employer's contribution from my IRA?

A. If you don't want to leave the employer's contribution in your IRA, you may withdraw it at any time, but any amount withdrawn is includible in your income. Also, if withdrawals occur before attainment of age 59½, and not on account of death or disability, you may be subject to the imposition of an extra penalty tax.

11. Q. May I participate in a SEP even though I'm covered by another plan?

A. An employer may not adopt this IRS Model SEP **(Form 5305–SEP)** if the employer maintains another qualified retirement plan or has ever maintained a qualified defined benefit plan. However, if you work for several employers, you may be covered by a SEP of one employer and a pension or profit-sharing plan of another employer.

Also, you may be covered by the SEP's of several different employers. Your combined annual deduction of SEP contributions will still be the lesser of $7,500 or 15 percent of your total compensation. If the combined SEP contributions exceed this deduction, the excess should be withdrawn. **Also see Question 12.**

12. Q. What happens if too much is contributed to my SEP–IRA in any one year?

A. Any excess contribution by you or by your employer beyond the yearly deduction limitations may be withdrawn without penalty on, or prior to, the due date (plus extensions) for filing your tax return (normally April 15th). Excess contributions left in your SEP–IRA account beyond that time are subject to a six percent excise tax. Withdrawals of those contributions may be taxed as premature withdrawals. **Also see Question 10.**

13. Q. Do I need to file any additional forms with IRS because I participate in a SEP?

A. No.

14. Q. Is my employer required to provide me with information about SEP–IRA's and the SEP agreement?

A. Yes, your employer must provide you with a copy of the executed SEP agreement **(Form 5305–SEP)**, these Questions and Answers, and provide a statement each year showing any contribution to your IRA. **Also see Question 4.**

15. Q. Is the financial institution where I establish my IRA also required to provide me with information?

A. Yes, it must provide you with a disclosure statement which contains the following items of information in plain, nontechnical, language:

(1) the statutory requirements which relate to your IRA;

(2) the tax consequences which follow the exercise of various options and what those options are;

(3) participation eligibility rules, and rules on the deduction for retirement savings;

(4) the circumstances and procedures under which you may revoke your IRA, including the name, address, and telephone number of the person designated to receive notice of revocation **(this explanation must be prominently displayed at the beginning of the disclosure statement)**;

(5) explanations of when penalties may be assessed against you because of specified prohibited or penalized activities concerning your IRA; and

(6) financial disclosure information which:

(a) either projects value growth rates of your IRA under various contribution and retirement schedules, or describes the method of computing and allocating annual earnings and charges which may be assessed;

(b) describes whether, and for what period, the growth projections for the plan are guaranteed, or a statement of the earnings rate and terms on which the projection is based;

(c) stipulates the sales commission to be charged in each year expressed as a percentage of $1,000; and

(d) the proportional amount of any nondeductible life insurance which may be a feature of your IRA.

See **Publication 590,** available at any IRS office, for a more complete explanation of the disclosure requirements.

In addition to this disclosure statement, the financial institution is required to provide you with a financial statement each year. It may be necessary to retain and refer to statements for more than one year in order to evaluate the investment performance of the IRA.

283–469–1

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## DEPARTMENT OF THE INTERIOR

### Bureau of Mines

### [30 CFR Part 601]

### Proposed Revised Fee Schedules

**AGENCY:** Department of the Interior.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule establishes a new schedule of prices and charges associated with the sale of helium. The proposed schedule of prices and charges reflects increases in the cost of labor and materials that have occurred since the current schedule became effective on January 1, 1978, particularly since that schedule was based on 1977 costs.

**DATE:** Comments on the proposed revised fee schedule must be submitted, in duplicate, on or before October 25, 1979.

**ADDRESS:** Comments may be directed to: Division of Helium Operations, Bureau of Mines, Columbia Plaza Office Building, Room 901, 2401 E Street, NW., Washington, D.C. 20241.

**FOR FURTHER INFORMATION CONTACT:** Ray D. Munnerlyn, Director, Division of Helium Operations, Columbia Plaza Office Building (see above address), A/C 202 634–4734.

**SUPPLEMENTARY INFORMATION:** This proposed revision is pursuant to the Helium Act, approved September 13, 1960 (74 Stat. 918; 50 U.S.C. 167). The proposed prices and charges are based on past actual costs as recorded in accounting records and a study of standard hours required to perform each operation, which have then been adjusted to reflect the projected cost of labor and materials in 1980. This new schedule proposes to bring the charge for each operation in line with the cost of the operation during the time it is in effect.

The primary author of this document is Billy J. King, Chief, Branch of Administration, Helium Field Operations, Box H 4372 Herring Plaza, Amarillo, TX 79101, Room 705, telephone FTS: 734–2608; A/C 806 376–2608.

The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

In light of the foregoing, it is proposed to amend the Appendix to 30 CFR Part 601 as set forth below.

Dated: September 19, 1979.

**Charles P. Eddy,**

*Acting Assistant Secretary of the Interior.*

**APPENDIX 2.**—*Schedule of Prices and Charges*

| | |
|---|---|
| Helium Sale Price: | |
| Each unit f.o.b. helium plants | $35.00 |
| Minimum order each contract (units) | 20 |
| Initial cash advance: | |
| Contracts for less than 500 units | Full purchase price[1] |
| Contracts for 500 units or more | 17,500.00 |
| Filling Charge: | |
| Standard-type cylinders (each) | 4.80 |
| Tank cars (each) | 160.00 |
| Semitrailers (each) | 65.60 |
| Service Charges: | |
| Furnish new cylinder cap (each) | 3.02 |
| Furnish new cylinder valve and install (each) | 5.85 |
| Hydrostatic test cylinder and indent new test date (each) | 5.65 |
| Paint cylinders (each) | 5.40 |
| Paint cylinder caps (each) | 0.50 |
| Replace safeties (each) | 2.05 |
| Reset cylinder valves (each) | 1.95 |
| Rework cylinder valves (each) | 4.40 |
| Wash and dry cylinder, reset valve (each) | 2.60 |
| Use of Tank Cars: | |
| Round trip per mile charge between helium plant and destination and | 0.11 |
| Time at destination: | |
| First 30 days (per day) | 35.00 |
| Second 30 days (per day) | 25.00 |
| Over 60 days (per day) | 20.00 |
| Initial cash advance for use of each tank car: | |
| Contracts specifying a definite number of round trips (each round trip) | 1,000.00 |
| Contracts specifying an indefinite number of round trips | 4,000.00 |
| Cash, bond, or insurance to guarantee return of containers: | |
| 1 tank car | 100,000.00 |
| 2 or more but less than 5 tank cars | 200,000.00 |
| Each tank car in excess of 4 | 20,000.00 |
| Use of Semitrailer: | |
| Time in customer service: | |
| First 30 days (per day) | 26.15 |
| Second 30 days (per day) | 46.00 |
| Over 60 days (per day) | 63.00 |
| Initial cash advance for use of each semi-trailer: | |
| Contracts specifying a definite number of round trips (each round trip) | 250.00 |
| Contracts specifying an indefinite number of round trips | 750.00 |
| Cash, bond, or insurance to guarantee return of container: | |
| 1 trailer | 40,000.00 |
| 2 or more but less than 5 trailers | 100,000.00 |
| Each trailer in excess of 4 | 10,000.00 |
| Use of Standard-Type Cylinder: | |
| Each cylinder per month | 1.40 |
| Minimum each contract | 140.00 |
| Initial cash advance for use of cylinder: | |
| Contracts for 100 cylinders or less | 420.00 |
| Contracts for more than 100 cylinders (each) | 4.20 |
| Cash, bond, or insurance to guarantee return of cylinder (each) | 90.00 |
| Additional Charge for Failing to Return Containers with Minimum Residual Pressure of 15 psig of Uncontaminated Grade-A Helium: | |
| Standard-type cylinder, evacuating and purge-each | 2.15 |
| Tube trailer, tube banks, or tubes manifolded: | |
| Individual tube capacity 1,800 cf or less: | |
| Purge (each tube) | 1.00 |
| Evacuate (each tube) | 1.25 |
| Individual tube capacity greater than 1,800 cf: | |
| Purge (each tube) | 5.50 |
| Evacuate (each tube) | 7.75 |
| Tube trailer, tube banks, or tubes not manifolded: | |
| Individual tube capacity 1,800 cf or less: | |
| Purge (per tube) | 2.06 |
| Evacuate (per tube) | 2.35 |
| Individual tube capacity greater than 1,800 cf: | |
| Purge (each tube) | 8.30 |
| Evacuate (per tube) | 10.42 |
| Tank car: | |
| Purge (each tank car) | 90.00 |
| Evacuate (each tank car) | 136.00 |
| Use of Storage Container: | |
| Tank car per day | 15.00 |
| Palletizing Cylinders for Shipment: | |
| Bureau of Mines-furnished pallet | 52.00 |

[1] The advance shall also include the estimated amount for filling charges and the full amount of estimated charges for the services to be rendered.

[FR Doc. 79-29694 Filed 9-24-79; 8:45 am]

BILLING CODE 4310-53-M

## ENVIRONMENTAL PROTECTION AGENCY

### [40 CFR Part 52]

### [FRL 1328-2]

### Arizona Process Weight Regulation; Proposed Response to Petitions for Reconsideration

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed Partial Response.

**SUMMARY:** In response to petitions for reconsideration submitted by Phelps Dodge Corporation and Magma Copper Company, EPA conducted a study of the applicability of the process Weight Regulation promulgated by EPA for control of particulate matter in Arizona to copper smelters operated by Phelps Dodge Corporation at Ajo, Arizona, and by Magma Copper Company at San Manuel, Arizona. EPA has determined on the basis of this study that the emission limitations for particulate matter established by the Process Weight Regulation can be achieved at these facilities through application of reasonably available control technology (RACT). EPA intends to conduct further monitoring and modeling of air quality in the San Manuel area, and to study further the contribution that these smelters make to ambient levels of particulate matter.

EPA solicits public comment on the proposed partial response to the petitions for reconsideration and upon the Technical Support Document which forms the basis for EPA's proposed response. A copy of the Technical Support Document may be obtained from EPA upon request.

**DATES:** Interested persons are invited to request a copy of EPA's Technical Support Document on the Arizona Process Weight Regulation and to submit written comments on the Technical Support Document and the proposed partial response to the

petitions for reconsideration. Written comments and recommendations should be submitted on or before November 26, 1979.

**ADDRESS:** Requests for a copy of the Technical Support Document or written comments and recommendations should be submitted to Clyde B. Eller, Director, Enforcement Division, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105.

**FOR FURTHER INFORMATION CONTACT:** David S. Mowday, Chief, Air Branch, Enforcement Division, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105 (415) 556–6150.

**SUPPLEMENTAL INFORMATION:**

On May 31, 1972 (37 FR 10842, 10849) and July 27, 1972 (37 FR 15080, 15081), EPA disapproved the control of particulate matter in the Phoenix-Tucson Intrastate Air Quality Control Region in the State of Arizona. This action was initiated because the Arizona State Implementation Plan did not provide the degree of control necessary to attain and maintain the National Ambient Air Quality Standards for particulate matter.

EPA determined that additional stationary source control beyond that required by the State's regulations could be obtained by applying reasonably available control technology for particulate matter to process sources (38 FR 12702–12703, May 14, 1973). A Process Weight Regulation to replace the disapproved Arizona regulation was proposed by EPA on July 27, 1972 in order to provide for further control of particulate matter emissions. Public hearings were held on the proposed regulations in Phoenix and Tucson, Arizona, and on May 14, 1973 (38 FR 12704), the EPA Process Weight Regulation (40 CFR 52.126(b)) was promulgated, with minor revisions. This regulation establishes particulate matter emission limitations for process industries in the Phoenix-Tucson Intrastate Air Quality Control Region; specifies that "all similar units employing a similar type process" shall be considered as one "process" for purposes of determining the allowable emission rate; and specifies the test methods and procedures to be used to determine compliance with the regulations.

On May 14, 1973, EPA also promulgated 40 CFR 52.134(a), a regulation which required affected sources to certify compliance with the Process Weight Regulation by January 31, 1974 or to submit to EPA for approval a proposed schedule containing necessary increments of progress to demonstrate compliance as expeditiously as practicable but no later than July 31, 1975.

Copper smelters were one of the industries affected by these regulations. No challenge of the regulations was made at the time of promulgation. However, on October 1, 1975 Phelps Dodge Corporation filed a Petition for Review of the Process Weight Regulation in the U.S. Court of Appeals for the Ninth Circuit. In addition, Phelps Dodge Corporation submitted to EPA on October 17, 1975 a Petition for Reconsideration of the Process Weight Regulation with respect to its smelter at Ajo, Arizona. A Petition for Reconsideration was also submitted to EPA by Magma Copper Company on November 26, 1975 with respect to the applicability of the Process Weight Regulation to Magma's smelter at San Manuel, Arizona.

In response to the Petitions for Reconsideration submitted by Phelps Dodge Corporation and Magma Copper Company, EPA agreed to conduct a detailed study of the applicability of the Process Weight Regulation to the copper smelter operated by Phelps Dodge at Ajo and the copper smelter operated by Magma at San Manuel. On January 16, 1976, in view of EPA's willingness to reconsider the Process Weight Regulation, the U.S. Court of Appeals for the Ninth Circuit remanded to EPA the Petition for Review submitted by Phelps Dodge Corporation but retained jurisdiction over the matter.

In summary, the Petition for Reconsideration submitted by the Phelps Dodge Corporation contends that the emission limits in the Process Weight Table are not achievable by applying reasonably available control technology at its Ajo smelter; that the definition of a process is too restrictive; and that the test method specified (Method 5) is inappropriate to test particulate matter emissions from copper smelters.

The Magma petition raises the same issues with respect to the San Manuel smelter, and also contends that the emission limits of the EPA regulation are not necessary to attain and maintain the National Ambient Air Quality Standards for particulate matter in the area near the smelter.

On July 5, 1979, Phelps Dodge submitted to EPA a supplemental petition for reconsideration of the process weight regulation. This supplemental petition raises three new issues. First, Phelps Dodge argues that the Ajo smelter does not contribute significantly to the ambient levels of particulate matter in its vicinity, and that further control of its emissions is therefore unnecessary. Second, Phelps Dodge argues that if EPA "promulgates" a regulation requiring the installation of additional controls, EPA must establish a new compliance date. Third, Phelps Dodge argues that Section 119 of the Act restricts EPA's authority to establish particulate matter emission limitations.

On July 27, 1979, Magma submitted to EPA a supplemental petition to reconsider the process weight regulation. Although Magma's supplemental petition does present additional evidence in support of its original petition, it does not raise any new issues beyond those raised by Phelps Dodge's supplemental petition.

EPA intends to respond to these new arguments raised in the supplemental petitions of Phelps Dodge and Magma in conjunction with its response to the original petitions for reconsideration. EPA's response to the new arguments will be published at a later date.

**Description of Study**

In order to investigate the issues raised in the two original Petitions, a detailed Study Plan for the regulation review was developed in November and December, 1975. The Study consisted of the following tasks:

1. Review of ambient air quality data in the Phoenix-Tucson air quality control region.
2. Preparation of a Technical Support Document describing EPA particulate matter source test Method 5, its development, its applicability to copper smelters and the reasons for its use.
3. Inspections of the eight copper smelters in Region IX to review and evaluate the control equipment presently installed at each facility.
4. Compliance stack testing (Method 5) at Kennecott (Hayden), Phelps Dodge (Ajo), Magma Copper (San Manuel), Inspiration Consolidated Copper (Inspiration), and ASARCO (Hayden). ASARCO (Hayden) has not been tested as part of this study due to pending legal action concerning the adequacy of existing sampling facilities at ASARCO (ASARCO, Inc. v. U.S. Environmental Protection Agency, et. al., No. 77–2822, U.S. Court of Appeals for the Ninth Circuit).
5. Testing using an instack filter and an outstack filter in series to measure the amount of condensable particulate matter in reverberatory furnace gas streams at Magma Copper (San Manuel), Phelps Dodge (Ajo) and Kennecott (Hayden).
6. Particle size distribution and metals testing to determine the collection efficiency of existing reverberatory

furnace electrostatic precipitators, and to determine the composition of condensable particulate matter at Phelps Dodge (Ajo), and Kennecott Copper (Hayden), and Magma Copper (San Manuel).

7. Investigation of additional or alternative control equipment available to Phelps Dodge and Magma Copper to meet the Process Weight Regulation.

**Results of the Study and Proposed Conclusions**

*Ambient Air Quality*

EPA's review of the ambient air quality data indicates that the national primary and secondary air quality standards for particulate matter have been violated at monitoring stations throughout the Phoenix-Tucson air quality control region, including monitoring stations located near copper smelters with the exception of San Manuel. Violations of the NAAQS for particulate matter have not been recorded at San Manuel monitoring sites since 1973. However, preliminary air quality modeling indicates that the Magma smelter located at San Manuel may cause violations of the national secondary ambient air quality standard for particlate matter and that the existing monitors may not be located at the expected points of maximum concentration. On the basis of this information, the San Manuel area has been designated, pursuant to Section 107(d) of the Clean Air Act, as unclassified for total suspended particulate matter (44 FR 21261, April 10, 1979). In order to determine the correct status of the San Manuel area, EPA intends to conduct further monitoring and modeling of air quality in the San Manuel area. EPA also intends to study the petitioners' claims that the smelters do not contribute significantly to ambient levels of particulate matter.

*Use of Test Method 5*

The Process Weight Regulation specifies that compliance shall be determined in accordance with the procedures of Test Method 5. Method 5 measures particulate matter from all sources at a set of standard conditions (120°C±14°C and atmospheric pressure). The 120°C±14°C temperature provides a more reasonable approximation of the amount of particulate matter that will exist at ambient conditions than measuring at stack temperature. This is because large amounts of volatile compounds exist in copper smelter gas streams. As the hot stack gases cool to ambient temperatures, these volatile compounds condense to form particulate matter. In Test Method 5 the hot stack gases cool to approximately 120°C and most of the volatile materials will condense and be measured. Thus, Method 5 provides a better approximation of the particulate matter that would exist at ambient conditions than would measuring at the hot stack temperatures.

EPA has found that allowing a filtration temperature in excess of 120°C±14°C would be inappropriate for copper smelters in Region IX. Raising the filtration temperature would significantly underestimate the particulate matter emissions from copper smelter gas streams because the volatile materials will pass through the filter in the gas phase and not be collected. Further, Method 5 provides a good indication of control system performance for control devices operated at about 120°C. Effective control of condensable toxic compounds found in copper smelter gas streams, such as sulfuric acid, arsenic, cadmium, etc., requires operation of control devices in the range of 90–120°C. Thus, EPA has concluded that Method 5 is an appropriate test procedure for measuring copper smelter gas streams in Arizona.

*Results of Compliance Tests*

Compliance tests were conducted at Magma Copper, San Manuel, Arizona; Phelps Dodge, Ajo, Arizona; Kennecott Copper Corp., Hayden, Arizona, and Inspiration Consolidated Copper, Inspiration, Arizona, between May and December 1976.

*Magma Copper Co.*—Test results showed that the particulate matter emissions from the reverberatory furnaces are in violation of the allowable limits in the Process Weight Regulation (2180 lb/hr actual emissions vs. 39.7 lb/hr allowable). Tests also showed that converter emissions, treated in two parallel sulfuric acid plants, are in compliance with the Process Weight Regulation (12.6 lb/hr actual emissions vs. 39.2 lb/hr allowable).

*Phelps Dodge, Ajo*—Tests showed that particulate matter emissions from the reverberatory furnaces are in violation of the allowable limits in the Process Weight Regulation (284 lb/hr actual emissions vs. 31.4 lb/hr allowable). Emissions from the converters, treated in a sulfuric acid plant, are in compliance with the Process Weight Regulation (6.5 lb/hr actual emissions vs. 29.3 lb/hr allowable). It was also determined that the fugitive gas collection system contributes a significant amount of particulate matter emissions to the main stack. These fugitive gases must be controlled in order for the smelter to meet the Process Weight Regulation.

*Kennecott Copper, Hayden*—Tests showed that particulate matter emissions from the reverberatory furnace are in compliance with the allowable limits in the Process Weight Regulation (21 lb/hr vs. 65.8 lb/hr).

*Inspiration Consolidated Copper, Hayden*—Tests showed that emissions from the sulfuric acid plant, which treats gases from the electric furnace and converters, are in compliance with the Process Weight Regulation (21.6 lb/hr actual emissions vs. 66 lb/hr allowable).

The above testing demonstrates that copper smelter gas streams which are treated in sulfuric acid plants can achieve compliance with the emission limits specified in the Process Weight Regulation. This is due to the use of extensive particulate matter removal systems prior to the sulfuric acid plant conversion tower. This particulate control equipment usually consists of hot electrostatic precipitators in conjunction with scrubbers and mist (wet) electrostatic precipitators.

Further testing, instack/outstack testing, at Magma Copper, Kennecott, Hayden and Phelps Dodge, Ajo, revealed that reverberatory furnace gas streams contain substantial amounts of volatile compounds. These compounds condense to form particulate matter as the gases are cooled from stack temperatures (260–315°C) to the 120°C sampling temperature of Method 5. The existing high temperature electrostatic precipitators on the reverberatory gas streams at Phelps Dodge, Ajo and Magma, San Manuel cannot effectively remove the volatile compounds when they are in the gas phase. Thus, these gas streams must be cooled to condense the volatile materials so that subsequently they can be collected in the final gas cleaning device.

*Reasonably Available Control Technology*

It is the conclusion of EPA that the high temperature precipitators operated by Phelps Dodge, Ajo and Magma Copper, San Manuel at their reverberatory furnace gas streams do not represent RACT. EPA further concludes that it is feasible from both a technological and economic perspective to meet the emission limits specified by the Process Weight Regulation and thus effectively control particulate matter emissions from reverberatory furnace gas streams. This requires, for Phelps Dodge and Magma, that each operate particulate matter control devices (such as electrostatic precipitators, scrubbers or baghouses) that are properly operated and maintained at temperatures

between 90–120°C. This is necessary in order to effectively control the volatile particulate matter in the gas streams. This conclusion was reached after consideration of all test data obtained during the study, as well as a review of control strategies used at other smelters that could be applied at Phelps Dodge and Magma. For example, the reverberatory furnace electrostatic precipitator operated at Kennecott Copper, Hayden, Arizona and the roaster/electric furnace/converter baghouse operated by Anaconda at its copper smelter in Anaconda, Montana can meet the Process Weight Reduction. The limited data available for the roaster/reverberatory furnace precipitators operated by ASARCO at its El Paso, Texas and Hayden, Arizona copper smelters indicates that these smelters are also capable of meeting the Process Weight Regulation. Further, the test results at the following operational installations show that due to the use of extensive cold gas cleaning systems for particulate matter removal and sulfuric acid plants, these processes meet the Process Weight Regulation: The electric furnace and converters at Inspiration Consoldiated Copper, Inspiration, Arizona; the fluid bed roaster and converters at Kennecott, Hayden, Arizona; the converters at Magma Copper, San Manuel, Arizona; and the converters at Phelps Dodge, Ajo, Arizona.

EPA's determination that the emission limits specified in the Process Weight Regulation are achievable at primary copper smelters was also based on a report prepared by Pedco Environmental, "Evaluation of Particulate Matter Control Equipment for Copper Smelters", prepared under contract to EPA. This report describes nine control options each for Phelps Dodge, Ajo and Magma Copper, San Manuel to enable their reverberatory furnaces to comply with the Process Weight Regulation. (As noted above, the converters already comply with the Regulation.) The capital and annual costs of these 18 options involve gas cooling equipment and an efficient particulate matter removal device downstream from the existing high temperature electrostatic precipitator. EPA estimates the cost for the Phelps Dodge, Ajo reverberatory furnace emission control would be approximately $2 million. Under the current smelter configuration, Phelps Dodge must also install a collection device (such as a baghouse or its equivalent) to reduce its fugitive gas collection system emissions prior to discharge to the main stack. This would cost approximately $1 million.

For Magma Copper, the control options described in the Pedco report also involved gas cooling and an efficient particulate matter removal device downstream from the existing high temperature electrostatic precipitator. EPA estimates that it would cost between $5 and $8 million for the San Manuel smelter to comply with the Process Weight Regulations.

**Summary**

Based on the Technical Support Document, it is the preliminary conclusion of EPA that the limits specified in the Process Weight Regulation can be achieved at all primary copper smelters, including green feed smelters, through installation and operation of commercially available particulate matter control equipment which is properly designed, operated and maintained.

EPA invites the public to comment upon this preliminary conclusion so the EPA may prepare a final response to the Petitions for Reconsideration submitted by Phelps Dodge Corporation and Magma Copper Company.

Date: September 18, 1979.

**Paul De Falco, Jr.,**

*Regional Administrator, Region IX, Environmental Protection Agency.*

[FR Doc. 79-29790 Filed 9-24-79; 8:45 am]

BILLING CODE 6560-01-M

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**[40 CFR Part 163]**

**[OPP-30023A; FRL 1327-5]**

## Proposed Guidelines for Registering Pesticides in the United States; Hazard Evaluation: Humans and Domestic Animals

**AGENCY:** Environmental Protection Agency ("EPA" or "Agency").

**ACTION:** Reopen Public Comment Period.

**SUMMARY:** This action provides another opportunity for interested people to comment on those pesticide registration guidelines dealing with evaluation of potential hazards that pesticides pose to humans and domestic animals (Subpart F, 43 FR 37336, August 22, 1978). These proposed guidelines were published under authority of the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA Section 3(c)(2)(A)]. Like the rest of the guidelines, these human hazard evaluation guidelines describe data which would be required to support the registration of pesticide products. These data requirements would be used in the Agency's assessment of pesticide risks to humans and domestic animals. This second opportunity for the public to provide comments on these guidelines parallels action by the Agency to propose very similar toxicology test and data requirements in test standards under the Toxic Substances Control Act (TSCA) (44 FR 27362, May 9, 1979; and 44 FR 44054, July 26, 1979). Since the public will be commenting on the test standards proposed under TSCA, the Agency feels that the public should have another opportunity to comment on the FIFRA guidelines from which the proposed test standards were derived. This notice (a) lists the contents of Subpart F; (b) discusses the inclusion of good laboratory practices in Subpart F; (c) summarizes the differences between FIFRA and TSCA toxicology data requirements with regard to chronic and oncogenicity studies; and (d) points out specific new issues and approaches to the Subpart F proposed study requirements. Public comment is solicited on all these subjects. These comments will be used by the Agency in developing final rules under FIFRA and TSCA that are as consistent as the applicable laws permit.

**DATES:** Comment date: Written comments concerning these proposed rules must be received before October 25, 1979.

Comments should be marked with the identifying symbol "OPP-30023A."

Public meeting: EPA has scheduled a public meeting on the Section 4 toxicology test standards proposed under TSCA. This meeting will be held on October 15–16, 1979.

Details concerning this meeting can be obtained from the Industry Assistance Office listed below.

**ADDRESS:** Interested people are invited to submit written comments to: Document Control Officer, Office of Toxic Substances (TS–793), Chemical Information Division, Room 447, East Tower, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460; Attention: Pesticides.

Public meeting location: Holiday Inn: "Chicago West", Melrose Park, Illinois.

Availability of support documents and comments: The support documents mentioned in this notice, and all written comments received under this notice and in response to the proposal of the FIFRA guidelines are available for public inspection in Room 447, East Tower, Waterside Mall, 401 M Street S.W., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Dr. William Preston, Hazard Evaluation Division (TS–769), Office of Pesticide Programs, Environmental Protection Agency, Washington, D.C. 20460 (tel. 703–557–1405) (FIFRA pesticide

guidelines); or Industry Assistance Office; Office of Toxic Substances (TS–799), Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460 [tel. 800–424–9065 (toll-free); in Washington, D.C., call 544–1404] (Toxic Substances Control Act test standards).

**SUPPLEMENTARY INFORMATION:** The Federal Insecticide, Fungicide, and Rodenticide Act as amended (FIFRA) (7 U.S.C. 136 et seq.) requires that a pesticide product be registered by EPA before it may be introduced into commerce. The Agency decides whether or not to register the pesticide product based on an application for registration. This application must include certain information. The Agency is required by FIFRA section 3(c)(2)(A) to "publish guidelines specifying the kinds of information whch will be required to support the registration of a pesticide."

The Agency intends that the guidelines provide meaningful instruction to applicants, registrants, and the general public on the specific data requirements for registration of a pesticide product. Such guidance should enable the pesticide industry to anticipate the costs and time involved in preparation and review of an application for registration and to plan research and testing programs using methodology acceptable to the Agency.

Toward these ends, these proposed guidelines would specify the conditions under which each particular data requirement is applicable to a pesticide product; the standards for acceptable testing, stated with as much specificity as the current scientific disciplines can provide; and the information reuired in a test report. The guidelines also indicate when an applicant should consult with the Agency before initiating certain tests. In addition, the appendices to the guidelines provide useful information and references for designing test protocols and, in some cases, examples of acceptable protocols for conducting the required testing.

At present and until these guidelines are published as final, the data requirements for registration, the standards for acceptable testing, and the information required in a test report will be determined on a case-by-case basis. The Agency will, however, consider these proposed guidelines as a general statement of policy regarding the nature and extent of data required to support a pesticide registration.

The Agency has recently published proposed test rules under TSCA on good laboratory practices and on oncogenicity and chronic feeding test procedures (44 FR 27362; May 9, 1979). In addition, the Agency has proposed many of the Subpart F guidelines requirements as standards to be used for testing under Section 4 of TSCA (44 FR 44054; July 26, 1979). TSCA section 4(a) provides that, in the absence of sufficient data and experience to predict the health or environmental effects resulting from exposure to a chemical substance, EPA may require testing on that chemical substance (1) if the chemical may present an unreasonable risk of injury to health or the environment; or (2) if the chemical is or will be produced in substantial quantities and may enter the environment in substantial quantities or result in significant or substantial human exposure. In requiring such testing, EPA must specify test standards for the development of the required data.

Some chemical substances will be subject to the jurisdiction of both acts, and thus may be subject to test standards promulgated under the two acts. Consistent with the Agency policy to minimize the burden on the regulated public which might arise from conflicting requirements under these different sets of standards, the Agency intends that the final rules establishing the two different sets of test standards be consistent to the extent permitted by law.

The reopened comment period permits the public to say something about the new and the already-proposed requirements together. Interested people will also have a chance to comment on the requirements proposed under either or both of the two Acts. Comments submitted in response to this notice will also be considered by EPA in developing testing methodologies under TSCA. As such, the comments will become part of the official rule-making record in the TSCA test standards proceedings (docket No. OTS 046005, 44 FR 44054; July 26, 1979). To be most useful, comments should include supporting rationales with properly referenced scientific data. Comments should address the need for consistency or differences between standards to be used under TSCA and FIFRA.

EPA has prepared support documents and collected other material which may be useful to people considering these proposals. The Agency prepared an Economic Impact Analysis to accompany the proposed pesticide guidelines and published it in the **Federal Register** (43 FR 39644; September 6, 1978). The Agency also developed a Technical Support Document to accompany the proposed TSCA test standards. In addition, the TSCA proposal identifies material which constitutes part of the "Record" for that rulemaking. All of these materials are available for inspection at the address listed at the beginning of this notice. In addition, copies of the Technical Support Document and the Economic Impact Analysis are available on request from the Industry Assistance Office at the above address.

## I. Contents of Subpart F

Sections of Subpart F are listed below as an aid to those who may wish to become familiar with the contents of this guidelines document.

**Overview, Definitions, and General Requirements**

Section
163.80–1 Overview.
163.80–2 Definitions.
163.80–3 General Provisions.
163.80–4 Reporting of Data.
163.80–5 Combined Testing.
[163.80–6 Additional General Provisions.]
[163.80–7 Record Retention and Additional Reporting Requirements.]

**Acute Testing**

163.81–1 Acute Oral Toxicity Study.
163.81–2 Acute Dermal Toxicity Study.
163.81–3 Acute Inhalation Toxicity Study.
163.81–4 Primary Eye Irritation Study.
163.81–5 Primary Dermal Irritation Study.
163.81–6 Dermal Sensitization Study.
163.81–7 Acute Delayed Neurotoxicity Study.

**Subchronic Testing**

163.82–1 Subchronic Oral Dosing Studies.
163.82–2 Subchronic 21-Day Dermal Toxicity Study.
163.82–3 Subchronic 90-Day Dermal Toxicity Study.
163.82–4 Subchronic Inhalation Toxicity Study.
163.82–5 Subchronic Neurotoxicity Studies.

**Chronic Testing**

163.83–1Chronic
163.83–2 Oncogenicity Studies.
163.83–3 Teratogenicity Studies.
163.83–4 Reproduction Study.

**Mutagenicity Testing**

163.84–1 Purpose and General Requirements for Mutagenicity Testing.
163.84–2 Test Standards for Detecting Gene Mutations.
163.84–3 Test Standards for Detecting Heritable Chromosomal Mutations.
163.84–4 Test Standards for Detecting Effects on DNA Repair or Recombination as an Indicator of Genetic Damage.

**Special Testing**

163.85–1 General Metabolism Study.

**Special Requirements**

163.86–1 Domestic Animal Safety Testing.

## II. Standards for Good Laboratory Practice

Another notice on Subpart F guidelines, soon to appear in the Federal

Register, proposes to include in the pesticide guidelines the "Good Laboratory Practices" portion of the proposed TSCA § 4 test standards to the extent that those standards are not covered by an earlier guidelines proposal. These "Good Laboratory Practices" standards were proposed under TSCA (44 FR 27362; May 9, 1979). These new requirements under Subpart F of FIFRA are delineated in §§ 163.80–6 and 163.80–7. These requirements would supplement those already proposed in Subpart F at §§ 163.80–3 and 163.80–4 (43 FR 37336; August 22, 1978). Differences between the FIFRA proposal and the TSCA proposal, and the regulations for good laboratory practice for the Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act (43 FR 59986; December 22, 1978) will be discussed in the notice.

### III. Chronic and Oncogenic Studies Under FIFRA and TSCA

Under TSCA the Agency has proposed chronic health effects test standards to appear in 40 CFR §§ 772.113–1 through –4. These proposed standards are intended to generate sufficient data to permit an evaluation of the potential oncogenic risk (§ 772.113–2) and non-oncogenic chronic risk (§ 772.113–3) which a chemical substance poses for human health. A third section, § 772.113–4, contains test standards for a study evaluating both oncogenic and non-oncognenic chronic effects. Section 772.113–1 contains general test standards applicable to all three subsequent sections.

Under FIFRA, the Agency has proposed guidelines which would generate data used to evaluate long-term hazards to humans arising from the use of a pesticide. Among thjese guidelines are proposed 40 CFR §§ 163.80–3, 163.83–1, and 163.83–2. Section 163.80–3 contains general requirements applicable in both §§ 163.83–1 and 163.83–2, which are the two FIFRA testing standards designed to evaluate the same risk potential as proposed in §§ 772.113–2 and 772.113–1, respectively.

The differences between the proposed TSCA test standards and FIFRA guidelines are discussed below. (The differences are organized according to the sections of the proposed TSCA test standards.)

*A. General, § 772.113–1*

1. Subsection (e): The FIFRA guidelines § 163.80–3(b)(1) do not contain the detailed personnel requirements that the TSCA test standards do. For example, the TSCA test standards have proposed that only qualified pathologists with specified training and experience are allowed to perform certain activities required by the test rules. Unlike the FIFRA guidelines, the TSCA test rules have two different sets of qualifications for pathologists, depending on the activity involved. In addition, the proposed TSCA rules do not presently allow for substitution of persons with equivalent training and experience as the FIFRA guidelines do.

2. Subsection (f): The TSCA test standards require the submission of a study plan at least 90 days before a study is initiated. The FIFRA guidelines do not require submission of a study plan prior to study initiation but do require submission of a test protocol with the final report [§ 163.83–1–(d)(1)]. The study plan submission requires other information in addition to the test protocol.

3. Subsection (g): The TSCA test standards specify that the test substance or mixture administered must contain no less than 90 percent of the specified test substance concentration during the time of administration; FIFRA guidelines specify only that no mixture of test or control substance be maintained or used for any period in excess of the known stability of the test or control substance. Also, the TSCA standards specify that the initial mean concentration of the test substance must not vary more than ±5% from the concentration designated in the test protocol.

4. Subsections (h) and (i): Only the TSCA test standards require that all feed be used within 90 days of its manufacture, that all rodents be fed a specified standardized diet, and that feed and vehicles be analyzed for specified contaminants.

5. Subsection (j): The TSCA test standards require the submission of "Interim Quarterly Summary Reports." FIFRA guidelines do not have such a requirement.

*B. Oncogenic Effects Test Standards, § 772.113–2*

1. Subsection (a)(3): The TSCA test standards require that animals be weaned and environmentally acclimatized before dosing; the FIFRA guidelines [§ 163.83–2(c)(3)], under certain specified circumstances, *permit* dosing *in utero*.

2. Subsection (a)(5): Both FIFRA and TSCA proposals require that the concurrent control group receive the vehicle if such is used in the study; however, the FIFRA guidelines [§ 163.83–2(c)(4)] require the use of an untreated control group as well, if the toxic properties of the vehicle are unknown. The TSCA test standards leave the decision to use an untreated control group to the discretion of the tester. The TSCA test standards indicate positive control groups may be required for particular chemicals.

3. Subsection (a)(7): The TSCA test standards specify the frequency of exposure for the different routes of exposure; the FIFRA guidelines do not.

4. Subsection (a)(8): The TSCA test standards require the tester to administer the test substance to both rats and mice for a minimum of 24 months but no longer than 30 months. The FIFRA guidelines [§ 163.83–2(c)(6)] require the test substance to be administered to mice for a minimum of 18 months and not ordinarily longer than 24 months, and to rats for a minimum of 24 months and not longer than 30 months.

5. Subsection (a)(9): Both the TSCA test standards and FIFRA guidelines [§ 163.83–2(c)(7)] require at least three dose levels in addition to controls. However, they define the highest dose level and lowest dose level slightly differently. The TSCA test standards require a preliminary toxicology study of at least 90 days to select the dose levels and require the sponsor to submit the rationale for dose selection as part of the study plan submission. FIFRA guidelines state that dose levels are generally predicted from subchronic data.

6. Subsection (b)(1): The TSCA test standards require that qualified veterinarian(s) be responsible for the health status and care of all test animals. The FIFRA guidelines do not contain any comparable provision.

7. Subsection (b)(1)(i)(A): The TSCA standards provide that the animals must be observed every 12 hours and that losses greater than 5% in any group due to cannibalism, autolysis of tissues, misplacement animals, and similar management problems not be acceptable. The FIFRA guidelines [§ 163.83–2(c)(10)] require that each test animal be observed at least daily, with losses due to management problems not to exceed 10 percent.

8. Subsection (b)(2): the TSCA test standards specify the responsibilities of the two types of qualified pathologists. The FIFRA guidelines do not.

9. Subsection (b)(2)(ii): The tissues to be examined microscopically are essentially the same for both regulations. However, only the TSCA test standards require that oral mucous membranes and aorta be examined, and only the FIFRA guidelines require routine examination of the sciatic nerve.

*C. Non-Oncogenic Chronic Effects Test Standards, § 772.113–3*

1. Subsection (a)(1): The TSCA test standards require, in addition to a rodent (generally a rat), the use of a non-rodent (generally a dog). The FIFRA guidelines do not routinely require testing on a non-rodent species.

2. Subsections (a)(3,5,7): The differences in these subsections are identical to those discussed above in part B, paragraphs 1–3.

3. Subsection (a)(8): The TSCA test standards require the tester to administer the test substance to the rat for at least 30 months. The FIFRA guidelines [§ 163.83–1(c)(6)] require administration for at least 24 months but not ordinarily longer than 30 months. In addition, the TSCA test standards require that in studies with non-rodents, the test substance be administered for at least 2 years. The FIFRA guidelines do not routinely require 2-year non-oncogenic effects testing with a non-rodent species, but requirements for subchronic tests on non-rodents lasting six months have been proposed (§ 163.82–1).

4. Subsection (a)(9): FIFRA guidelines [§ 163.83–1(c)(7)] require that the highest dose be higher than that expected for human exposure. Under the TSCA test standards, the tester must conduct a preliminary toxicology study of at least 90 days to select the dose levels and must submit the rationale for dose selection as part of the study plan submission.

5. Subsection (b)(1)(i): The differences in this subsection are identical to those discussed above in part B, paragraphs 6–8.

6. Subsection (b)(1)(i)(c), (D): The TSCA test standards require that urinalysis and certain specified function tests be performed, while the FIFRA guidelines [§ 163.83–1(c)(11)(iv)] leave these decisions to the discretion of the tester.

7. Subsection (b)(2)(ii): The TSCA test standards require that all of the tissues listed in this subsection be microscopically examined from all test animals. The FIFRA guidelines [§ 163.83–1(c)(16)] require a limited number of tissues from all test animals be examined, and other specified tissues from test animals from the high dose level and control groups be examined.

*D. Combined Chronic Effects Test Standards, § 772.113–4*

FIFRA guidelines [§ 163.80–5] allow combined testing to be conducted if the data requirements of each individual test are satisfied. They do not, however, provide any specified test methods. TSCA § 4 test standards (§ 772.113–4) propose a test method for studing both oncogenic and chronic toxicity effects simultaneously.

**IV. New Issues and Approaches**

Agency scientists have studied the proposed requirements in the Subpart F guidelines and wish to bring to the public's attention some issues and approaches to the toxicology studies that were not discussed in the preamble published on August 22, 1978. The Agency solicits comments on these issues and approaches, and also welcomes the submission of new protocols and methodology that might improve the guidelines and the resultant hazard evaluation program of the Agency.

*A. Acute Oral and Dermal Toxicity Studies, §§ 163.81–1 and –2*

Several questions have been raised on the guidelines for acute oral and dermal toxicity testing that prompt the need for additional public comment.

1. Should several concurrent vehicle control groups be used to determine the LD50 of the vehicle or is one dosage level at the greatest volume of the vehicle administered to the test group adequate to define the toxic effects of the vehicle?

2. Should the observation period for animals demonstrating visible signs of toxicity be extended beyond 14 days or should the study be terminated at 14 days observation and additional studies be undertaken to define those toxic effects observed at 14 days?

3. For animals with evidence of gross pathology in acute tests who survive for 12 hours or more, is it appropriate for the Agency to require that tissues from these animals be taken and preserved for possible future microscopic examination?

4. For the acute dermal study, should the data reporting and evaluation paragraph include an observation on the approximate amount of test material applied per area for skin exposed (mg/cm$^2$)?

*B. Acute and Subchronic Inhalation Studies, §§ 163.81–3 and 163.82–4*

The following questions address new aspects of issues on which the Agency would like public comment:

1. What should the limit (%) be of respirable dust in the test material? Would 20% be appropriate?

2. Test substance: (a) What circumstances indicate that the technical grade of the active ingredient should be used as the test substance in the subchronic study? And what circumstances indicate use of the formulated product or, perhaps, use of the pure chemical? (b) Should the physical form of the test substance (especially relative to the size of particles and percent of the respirable portion) be the same as that which would be encountered by man?

3. Do we need to include both sexes for inhalation tests when other acute studies show no differences in toxicity due to sex?

4. Should the confidence limits on the LD50 data vary for the type of materials used?

5. Should exposures be based on a concentration/time basis (LCT50 as opposed to LC50)?

6. Post-exposure observation in the acute study: Should a definte time of 14 days be used to terminate a test? Should "judgment" be the basis? Should a combination of time and "judgment" be the basis? Should criteria of reversibility be included in these guidelines?

7. Should initial and daily weighings be omitted in favor of initial and weekly weighings?

8. Solvent controls: Should a complete toxicity study be carried out for solvent controls or should just one level be included, to determine solvent effects?

9. Can a negative (untreated) control be omitted if a solvent control is used?

10. Should the cut-off limit of 5 mg/l for further testing in the acute study [see § 163.81–4(b)(3)(i)] be changed? Should it be related to respirable aerosol concentrations only?

11. Chamber conditions (concentrations, temperature, humidity, size analysis): Should the amount of measurement or recording be reduced? Should the limits already proposed be more flexible?

*C. Primary Dermal Irritation Study, § 163.81–5*

Several changes from the published guidelines should be considered:

1. Should EPA establish test standards which allow an exposure period of 4 hours to be used for testing products with certain use patterns where the human dermal exposure associated with these uses is likely to be not more than 4 hours? If a 4-hour exposure period were adopted, should EPA add an observation and scoring period at 24 hours?

2. Testers could select the exposure period most appropriate to the pesticide product's pattern of use. But would resolution of the test exposure pefiod on a case-by-case basis for each product be appropriate?

3. Should there be a requirement to observe and score responses at 48 hours (regardless of the exposure time selected)? Responses to some materials

peak at this time, and these peaks have been missed because customarily the observations have been made at 24 and 72 hours.

*D. Dermal Sensitization Study, § 163.81–6*

The Agency requests public comment on the suggestion that the Landsteiner and Jacob method (1935) described in § 163.81–6 be replaced or supplemented by any or all of the test procedures described in the references listed below. To permit greater flexibility, it has been suggested that the tester select from any of the tests. The test procedures listed below are considered to elicit greater sensitivity than the current procedure. A positive control would be required in each of the procedures suggested below.

1. Buehler, E. V. 1965. Delayed contact hypersensitivity in the guinea pig. *Arch. Dermatol.* 91:171–175.
2. (a) Magnussen, B., and A. M. Klingman. 1969. The identification of contact allergens in an animal assay. The guinea pig maximization test. *J. Invest. Der.* 52:268.
(b) Magnussen, B., and A. M. Klingman. 1970. Allergic contact dermatitis in the guinea pig. *In* Identification of Contact Allergens. Chas. C. Thomas: Springfield, Ill.
3. Maurer, T., P. Thomann, E. G. Weirich, and R. Hess. 1975. The optimization test in the guinea pig: method for the predictive evaluation of the contact allergenicity of chemicals. *Excerpta Medica Internat. Congr. Series* No. 376:203–207.

*E. Teratogenicity Studies, § 163.83–3*

1. The Agency requests comment on whether these guidelines should be modified to include suitable dissection techniques that allow for examination of all fetuses for both skeletal and soft tissues. Unfortunately, references for such methodologies are lacking. The Agency welcomes comments and/or suggestions on suitable dissection techniques. Modifications of or combinations with the following technique coupled with sectioning should be considered: Staples, R. E. 1974. Detection of visceral alterations in mammalian fetuses. *Teratology* 9:A–37.

2. Should the requirement for a positive control be dropped? Discussion within the Agency has centered around the value of this requirement, and the following considerations have been identified. Testing a group of 20 animals each time a new strain is introduced would not give useful information, and testing the group once per year would not result in detection of seasonal variation. A positive control group containing fewer animals (e.g., five) within each study would be insufficient to yield statistically meaningful information.

3. Are there data to indicate that dosing animals throughout gestation would increase fetal deaths and thereby complicate the interpretation of the teratology studies?

4. Is carcass weight of dams at caesarean section necessary or useful? Discussion has indicated that fluid retention by dams would complicate carcass weight, yet carcass weight would be useful to help determine maternal toxic effects.

5. Should individual or average fetal weights be taken? At issue here is that findings of reduced ossification and other premature findings may be due to prematurity and not due to toxicity. Individual pup weights might help determine whether findings were due to prematurity or toxicity.

6. The Agency requests comments on the appropriateness of the requirement that one-half to two-thirds of each litter be examined for skeletal abnormalities, and the remaining one-half to one-third be examined for soft tissue abnormalities. [See paragraph (b)(11)(ii).]

*F. Reproduction Study, § 163.83–4*

The following considerations are brought to the attention of the public regarding several aspects of the reproduction study that are being seriously discussed by scientists in this Agency and several other Federal agencies. The latter three items (6 through 8) are the same as those included in the preamble to the TSCA guidelines (44 FR 44060; July 26, 1979) regarding "Section 772.116–3 Reproductive Effects Test Standards."

1. Adjustment to litter sizes may result in reduced variances in statistical measurements, but biases in the methods of culling the litter may affect the data. Comments on standardizing litter sizes and the necessity for randomization of culling methods are solicited.

2. Stratified, random methods of assignment to dose groups based on consideration of body weight or other variables is most often recommended because they reduce variances in animal weight (or other variables) at the start of the study and may be used later to assure that litter mates are not cross-mated. Comments on methods of assigning dose groups are invited.

3. These guidelines require identification of offspring by individual numbers and recording of each pup's body weight, signs of toxicity, and other factors. Should pups be weighed individually or collectively? The Agency recognizes that collection of individual data is time-consuming and expensive, and encourages public comment on the value of these procedures.

Spermatogenesis may be evaluated by histopathologic examination of the testes, by sperm counts, or by production of offspring. The public is encouraged to comment on methods for evaluating spermatogenesis.

5. Duration of dosing prior to mating may be important. Comments on commencement of dosing as it relates to spermatogenesis and estrus cycles would be appreciated. The Agency intended that animals not be mated until they had reached early adulthood, so that variations produced by younger animals could be avoided.

6. Should the number of males and females in each dose group be equal in order to generate equal statistical evaluation for males and females? The proposal requires 10 males per dose group and enough females to produce 20 litters. *See* A. K. Palmer. "Some thoughts of reproductive studies for safety evaluation." Toxicology: Review and Prospect. Proceedings of the European Society for the Study of Drug Toxicity, vol. XIV, p. 82. Exerpta Medica International Congress Series No. 288.

7. The proposal requires dosing of the first two generation study. EPA is considering dosing only the first generation in order to determine the effect on the second generation of *in utero* exposure to the test substance. Dosing of the second generation as it matures may result in confusing the *in utero* effects with the effects of direct dosing.

8. EPA is considering whether to use a "split study" technique whereby half the second generation is sacrificed after weaning. The scarifice near term allows better assessment of fertility and while implantation sites are still present. An estimate of embryo and fetal wastage can also be made. In the remaining half, general performance relating to reproduction and pathology from *in utero* exposure and lactation can be assessed. This split study may necessitate a greater number of animals be used in the reproductive effects study.

*G. General Metabolism Study, § 163.85–1*

1. Should metabolism/pharmacokinetic data be required in at least two species (rodent and non-rodent, preferably of the species and strain used in chronic/oncogenicity or subchronic feeding studies?

2. Should calculations for, e.g. percent pesticide absorbed be based only on total radioactivity measurements, or should these be based only on

metabolite(s) which have been identified?

3. Should metabolism/pharmacokinetic data be required only on those pesticides which require chronic feeding or oncogenicity studies or should such data be required, also, for pesticides which require subchronic feeding studies?

The Agency would appreciate comments on these questions, and on any other aspects of these Subpart F guidelines that could provide useful information related to hazard evaluation for the protection of humans and domestic animals from unreasonable adverse effects due to pesticides.

(Sections 3, 8, and 25(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Pub. L. 92–516, 92 Stat. 819; 7 U.S.C. 136 *et seq.*; 1972, 1975, and 1978))

Dated: September 18, 1979.

**Steven D. Jellinek,**

*Assistant Administrator for Toxic Substances.*

[FR Doc. 79–29598 Filed 9–24–79; 8:45 am]

BILLING CODE 6560–01–M

## INTERSTATE COMMERCE COMMISSION

**[49 CFR Parts 1243 and 1249]**

**[No. 37117]**

### Elimination of Requirement To File Quarterly Report Form QL&D

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of Proposed Rule.

**SUMMARY:** The Commission is proposing to eliminate the requirement that all Class I railroads, except switching and terminal railroads, and all motor common and contract carriers of property with average annual operating revenues of $1 million or more file Form QL&D–R&M, the quarterly report of freight loss and damage claims. The Commission's Data Task Force reviewed this reporting requirement and concluded that Commission use of the data contained in the report could no longer justify the reporting burden. Therefore, the Commission is proposing to eliminate this reporting requirement effective January 1, 1980.

**DATES:** Comments are due in the Commission on or before November 9, 1979.

**ADDRESS:** Send comments to Bryan Brown, Jr., Room 6113, Interstate Commerce Commission, 12th and Constitution, Washington, D.C., 20423.

**FOR FURTHER INFORMATION CONTACT:** Bryan Brown, Jr., (202) 275–7448.

**SUPPLEMENTARY INFORMATION:** The Commission's Data Task Force (DTF) has reviewed reports filed by all regulated carriers. The objective of the DTF review was to determine where significant reductions in reporting burden could be achieved. The DTF reviewed the data included in annual, special and periodic reports filed with the Commission to determine if the data was necessary and used on a regular basis to fulfill regulatory responsibilities.

The DTF concluded that Commission use of Form QL&D–R&M data could no longer justify the reporting burden imposed on carriers. Consequently, we are proposing to eliminate the reporting requirement effective for the reporting year beginning January 1, 1980.

The Commission is aware that the Department of Transportation (DOT) uses information contained in Form QL&D–R&M and that DOT does not have the authority to require that the information be filed. Therefore, the Commission is making DOT a party to this proceeding and requesting that DOT demonstrate a justifiable need for the information. DOT should also indicate any alternatives which may be available to obtain this data. Accordingly, we propose to eliminate Sections 1249.15 and 1243.4 of Subchapter C of Title 49 of the Code of Federal Regulations.

This proposed revision does not significantly affect the quality of the human environment.

This revision is proposed under the authority of 49 U.S.C. §§ 10764, 11142, and 11145.

Decided: September 12, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis. Commissioner Alexis not participating in the disposition of this proceeding.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 79–29714 Filed 9–24–79; 8:45 am]

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# Notices

Federal Register
Vol. 44, No. 187
Tuesday, September 25, 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

### Reimbursement of Public for Participation in Federal Trade Commission Proceedings; Request for Comments

**AGENCY:** Administrative Conference of the United States.

**ACTION:** Request for public comments.

**SUMMARY:** The Administrative Conference of the United States is preparing recommendations on the Federal Trade Commission's administration of its program to reimburse expenses of members of the public and private groups who participate in trade regulation rulemaking proceedings. The Conference solicits comments from interested members of the public on these proposed recommendations.

**DATE:** Comments by October 16, 1979.

**FOR FURTHER INFORMATION CONTACT:** Sarah G. Flanagan, Administrative Conference of the United States, 2120 L Street, N.W., Washington, D.C. 20037 (202/254–7020).

**SUPPLEMENTARY INFORMATION:** The Administrative Conference, through its Committee on Rulemaking and Public Information, is conducting a major project to study and evaluate the procedures that the Federal Trade Commission uses to make trade regulation rules pursuant to the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, P.L. 93–637.

The project is a large one and is being considered by the Committee in several segments: this one deals with the Commission's procedures for administering its program for reimbursing the expenses of persons and groups who are unable to afford the costs of participation in those rulemaking proceedings.

The Committee now has the following recommendations under consideration and requests comments on them from members of the public.

Those wishing to comment on the draft of the recommendations under consideration set forth below are urged to do so as soon as possible. Those received after October 16, 1979 will be considered only if time permits. Comments must be in writing and should be sent to the Conference at the address shown above.

#### Preamble and Recommendations Under Consideration

The Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, Pub. L. 93–637, which established procedures for the Federal Trade Commission's promulgation of trade regulation rules, also authorized the Commission to "provide compensation for reasonable attorneys fees, expert witness fees, and other costs of participating" in those proceedings. The statute (15 U.S.C. sec. 57a(h)(1)) provides that the Commission may reimburse the expenses of

> any person (A) who has, or represents, an interest (i) which would not otherwise be adequately represented in such proceeding, and (ii) representation of which is necessary for a fair determination of the rulemaking proceeding taken as a whole and (B) who is unable effectively to participate in such proceedings because such person cannot afford to pay costs of making oral presentations, conducting cross-examination, and making rebuttal submissions in such proceedings.

The present Recommendation is addressed to relatively technical questions that have arisen in connection with the Commission's administration of this expense reimbursement program. Since the Commission has completed only three Magnuson-Moss rulemaking proceedings, assessments of the value or the overall impact of this program cannot yet be made. The Conference does anticipate that these larger questions will be addressed in its final report on Magnuson-Moss rulemakings at the Federal Trade Commission.

The Commission, lacking specific statutory guidance and the benefit of other agencies' experience, progressed slowly in developing its practice for administering its expense reimbursement program. The Commission's present system of administration appears to implement faithfully and efficiently the reimbursement program established by the statute. The conclusions embodied in the recommendations set forth below are drawn from an examination of the experience of the Federal Trade Commission and, in large part, reflect the Commission's current practice.

#### Recommendation

1. The Conference recommends that the Federal Trade Commission, in its implementation of the expense reimbursement program established by the Magnuson-Moss Act, continue to observe the following principles:

(a) Interested members of the public should be given an opportunity to comment on proposed regulations and guidelines for administering any expense reimbursement programs.

(b) The availability of funding should be set forth in the principal agency documents announcing the initiation of a proceeding, such as published notices of proposed rulemaking and press releases. The announcements should advise where further information on the funding program can be obtained. In addition, affirmative steps, such as direct notification of industry organizations, consumer groups, and other voluntary associations likely to be interested, should be taken to inform potentially interested members of the public of the availability of reimbursement funds. Lay-language booklets and brochures explaining the funding program and the procedures for obtaining reimbursement should be prepared and distributed.

(c) Filing dates for reimbursement applications should be established and announced well in advance. Since, however, participatory needs or desires may change by reason of the evolving nature of rulemaking proceedings, applications filed after these dates should be considered to the extent feasible.

(d) Applications for reimbursement should be acted on expeditiously in order to allow applicants adequate time to prepare for participation in the proceeding.

(e) Advance payments to applicants should be available where necessary to allow adequate preparation for participation.

(f) Responsibility for granting or denying applications should not be given to personnel in the office within

the agency that has direct responsibility for developing the staff position in the proceeding for which reimbursement is sought. However, these persons and others familiar with the proceeding (including presiding officers) should give their views on such matters as the relevance of the applicant's proposal, the applicant's interest in the proceedings, and the relationship between the applicant's proposal and the views and information expected to be otherwise presented to the persons with responsibility for reimbursement decisions. Wherever feasible, those with responsibility for reimbursement decisions should also be given access to experts, who are independent from any office within the agency that has direct responsibility for developing the staff position in the proceeding, on matters such as survey design and other research activities proposed by an applicant.

(g) When the character of an applicant as a respresentative organization is important to the decision to authorize reimbursement, the persons with responsibility for reimbursement decisions should consider the nature of the relationship—e.g., whether the applicant receives contributions from members or constituents, whether the applicant has a record of advocating similar positions with apparent member or constituent approval and whether the applicant advises its members or constituents of the position it is taking or has taken in the proceeding. The agency should also require the applicant to advise its members or constituents of its position.

(h) It should be recognized that a standard which limits reimbursement to applicants who are unable to bear the costs of participation cannot be taken literally, and application of such standard will inevitably require judgments about the applicant's priorities and subjective intentions, the reasonableness of the applicant's other spending decisions, its prospects for other funding, and similar questions of managerial judgment.

(i) Applicants should be advised in writing of the reasons for grant or denial of their applications. All advisory letters should be indexed and made publicy available.

(j) Programs for auditing the performance of reimbursed entities, including both their use of funds received and an assessment of the quality of their work product, should be established. Sufficient resources should be allocated to ensure that audits are completed on a timely basis, so that supplemental or subsequent funding decisions can be informed by the results of the audits.

(k) There is disagreement as to which of several broad purposes—such as broadening the sources of the information presented (or developed by cross-examination) in a proceeding, improving the quality of the information in the record of a proceeding, and providing for participatory democracy by encouraging the expression of public views—are intended to be served by an expense reimbursement program like that established by the Magnuson-Moss Act. These purposes can respectively lead to different decisional criteria. The agency should specify those purposes that it recognizes and the factors that it will consider in determining whether a reimbursement application might further those purposes.

2. The Conference recommends the principles set forth in Paragraph 1 for the consideration of agencies establishing expense reimbursement programs for rulemaking proceedings, and for the consideration of the Congress in the formulation of such programs by statute.

3. A congressionally-established expense reimbursement program should expressly provide for the funds and staff positions necessary to implement the program, including provisions for administration, outreach activities, and financial and quality-control audits.

4. A congressionally-established expense reimbursement program should specifically authorize the agency to make advance payments to funded participants if the agency does not clearly have that authority.

September 19, 1979.

**Richard K. Berg,**

*Executive Secretary.*

[FR Doc. 79-29661 Filed 9-24-79; 8:45 am]

BILLING CODE 6110-01-M

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### Advisory Committee on Foreign Animal and Poultry Diseases; Meeting

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of a meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases.

**SUMMARY:** The purpose of this document is to give notice of a meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases to review actions taken on recommendations made at the previous meetings of the Committee, to review foot-and-mouth disease (FMD) prevention, control, and eradication activities, and to discuss the current African swine fever situation in the Western Hemisphere.

**PLACE, DATE AND TIME OF MEETING:** EPIC Room, 7th Floor, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland, October 2, 1979, at 8:15 a.m. to 4:30 p.m.

**SUPPLEMENTARY INFORMATION:** The purpose of the committee is to advise the Secretary of Agriculture regarding the program operations and measures to prevent, suppress, control, or eradicate an outbreak of FMD or other destructive foreign animal and poultry disease in the event such disease should enter this country.

The purpose of this meeting is to review actions taken on recommendations made at the previous meetings of the Committee, to review FMD prevention, control and eradication activities, to discuss the current African swine fever situation in the Western Hemisphere, and to discuss other foreign animal and poultry diseases.

The meeting is open to the public. Written statements may be filed with the committee before or after the meeting. Any member of the public who wishes to file a statement or who has further questions may contact Dr. F. J. Mulhern, Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 312-E, Washington, D.C. 20250, telephone number 202-447-3668.

Dated: September 21, 1979.

**F. J. Mulhern,**

*Vice Chairman, Advisory Committee on Foreign Animal and Poultry Diseases.*

[FR Doc. 79-29791 Filed 9-24-79; 8:45 am]

BILLING CODE 3410-34-M

### Office of Transportation

### Rural Transportation Advisory Task Force Meeting

**AGENCY:** Office of Transportation, U.S. Department of Agriculture.

**ACTION:** Notice of Public Meeting of the Rural Transportation Advisory Task Force.

**DATES:** September 26, 1979 9:00 a.m. September 27, 1979 9:00 a.m.

**ADDRESS:** September 26 & 27, 1979,. Ramada Inn, Rosslyn, Va.

**SUMMARY:** At the completion of its work on January 1, 1980, the Task Force will report on methods for enhancing the economical and efficient movement of agricultural commodities (including

forest products) and agricultural inputs and recommend approaches for establishing a national agricultural transportation policy and for identifying impediments to a railroad transportation system adequate for the needs of agriculture. The Task Force formed three subcommittees on policy and essential transportation needs of agriculture; railroad problems of agriculture; and highway, waterway; and air transportation problems of agriculture. The Task Force has published its interim report including the identification of critical agricultural transportation issues. The Task Force has also held 12 regional public hearings.

Following its review of public comment received during regional hearings, the purpose of this meeting is to prioritize issues and begin the process of formulating final recommendations.

The public is invited to attend.

**FOR FURTHER INFORMATION CONTACT:**
Dr. Robert J. Tosterud, Office of Transportation, U.S. Department of Agriculture, Washington, D.C. 20250, Phone: (202) 447–7690.

Dated: September 7, 1979.

Ron Schrader,

*Director, Office of Transportation.*

[FR Doc. 79-29755 Filed 9-24-79; 8:45 am]

BILLING CODE 3410-02-M

## Rural Electrification Administration

### Basin Electric Power Cooperative; Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Final Environmental Impact Statement (FEIS) with inputs from the Department of Energy (DOE) in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA) in connection with proposed applications from the basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, North Dakota 58501, to finance, construct, and operate transmission facilities to be located in portions of Burke, Divide, Williams, Mountrail and Ward Counties, North Dakota. Under agreement between REA and DOE, REA has served as lead agency for purposes of complying with the NEPA. DOE has adopted the Environmental Impact Statement to satisfy its responsibilities under NEPA.

This statement examines the impacts of 217 km (135 miles) of 230 kV transmission line to effect an internation transmission connection with Canada and to help strengthen the existing transmission system. The proposed line would be constructed from Basin Electric's Logan Substation near Minot (Ward County) to the Montana-Dakota Utilities' Substation at Tioga (Williams County) and then to a point in Divide County on the United States-Canadian Border 45 miles due north of Tioga. This project as planned would provide a 100 MW seasonal interchange of power between Basin Elecric Power Cooperative and Saskatchewan Power Corporation as well as improve transmission service in the Tioga area.

Additional information may be secured on request, submitted to the Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, or Mr. James M. Brown, Jr., System Reliability and Emergency Response Branch, Economic Regulatory Administration, Department of Energy, Room 4070, Vanguard Building, Washington, D.C. 20461, telephone number: (202) 634–5620.

Copies of the REA Final Environmental Impact Statement have been sent to various Federal, State, and local agencies, as outlined in the Council on Environmental Quality guidelines. The Final Environmental Impact Statement may be examined during regular business hours at the office of REA in the South Agriculture Building, 12th Street and Independence Avenue, SW., Washington, D.C., Room 1268, or the Department of Energy Public Docket, Room B110, 2000 M Street, NW., Washington, D.C., or at the borrower's address indicated above. Copies of the REA FEIS may be obtained upon request to the REA at the above address.

Final REA and DOE action with respect to this matter (including any release of funds) may be taken after 30 days, but only after REA and DOE have reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental policy Act of 1969 have been met.

Date At Washington, D.C. , this 19 day of September 1979.

Joe S. Zoller,

*Acting Administrator, Rural Electrification Administration.*

[FR Doc. 79-29754 Filed 9-24-79; 8:45 am]

BILLING CODE 3410-15-M

## Soil Conservation Service

### Brushy-Peaceable Creek Watershed Project, Okla.; Finding of No Significant Impact

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for critical area treatment in the Brushy-Peaceable Creek Watershed project, Pittsburgh County, Oklahoma.

The environmental assessment of this federally-assisted action indicates that the measures will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The action involves the use of shaping and sodding, diversions, grade stabilization structures and erosion control dams to reduce or control critically eroding areas.

The finding of no significant impact notice has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074, telephone number (405) 624–4360. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until October 25, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83–566, (16 U.S.C. 1001–1008))

[FR Doc. 79-29622 Filed 9-24-79; 8:45 am]

BILLING CODE 3410-16-M

### Moores Creek Watershed, Ala.; Finding of No Significant Impact

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Moores Creek Watershed, Chambers County, Alabama.

The environmental assessment of this federally-assisted action indicates that

the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William B. Lingle, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. Alternatives being considered are conservation land treatment, critical area treatment, and combinations of floodwater retarding structures.

The finding of no significant impact has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, 138 South Gay Street, Auburn, Alabama 36830; telephone number (205) 821–8070. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until October 25, 1979.

Notice of Intent to Prepare an Environmental Impact Statement for Moores Creek Watershed, Alabama, published in the **Federal Register**, Volume 43, No. 12, Wednesday, January 18, 1978, is hereby cancelled.

Dated: September 14, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83–566, (16 U.S.C. 1001–1008).)

**Joseph W. Haas,**

*Assistant Administrator for Water Resources.*

[FR Doc. 79–29621 Filed 9–24–79; 8:45 am]

BILLING CODE 3410–16–M

## COMMISSION ON CIVIL RIGHTS

### Kentucky 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 press conference of the Kentucky Advisory Committee (SAC) of the Commission will convene at 10:30a and will end at 11:30a, on October 16, 1979, at the Stouffer's Inn, 120 West Broadway, First Floor-Room South A, Louisville, Kentucky; also a planning meeting of the Kentucky Advisory Committee will convene at 11:30a and will end at 3:30 p, on the same date and at the same address.

Persons wishing to attend this press conference and open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Building, Room 362, 75 Piedmont Avenue, NE., Atlanta, Georgia 30303.

The purpose of the press conference is to release most recent developments regarding employment in the Kentucky Bureau of State Police; the purpose of the planning meeting is to plan program activities for FY 80 and to conclude the Kentucky State Police study.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., September 18, 1979.

**John I. Binkley,**

*Advisory Committee Management Officer.*

[FR Doc. 79–29610 Filed 9–24–79; 8:45 am]

BILLING CODE 6335–01–M

## DEPARTMENT OF COMMERCE

### National Bureau of Standards

### Appointment of Additional Member to General Performance Review Board

In a notice published in the **Federal Register** on September 12, 1979 (44 FR 53098), announcement was made of the establishment oif the General Performance Review Board (GPRB) by the Director of the National Bureau of Standards (NBS), as Appointing Authority for the Senior Executive Service at NBS. That notice also announced the purpose of the NBS GPRB, the appointment of six of its initial members, and the terms of such members. In addition, the notice pointed out that upon the appointment of the seventh member to complete the initial membership, such appointment would be announced in the **Federal Register.**

This notice announces the appointment of the seventh member to the NBS GPRB, whose name, title and term is set out below.

Dr. Edward S. Epstein, Director, U.S. Climate Program, National Oceanic and Atmospheric Administration, 6001 Executive Boulevard, Rockville, Maryland 20852, Term—2 years.

Persons desiring any further information about the GPRB of its membership may contact Mr. Clarence Hardy, Chief, Personnel Division, National Bureau of Standards, Washington, D.C. 20234 (301) 921–3555.

Dated: September 21, 1979.

**Ernest Ambler,**

*Director.*

[FR Doc. 79–29873 Filed 9–24–79; 8:45 am]

BILLING CODE 3510–13–M

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### USAF Scientific Advisory Board; Meeting

September 12, 1979.

The USAF Scientific Advisory Board Ad Hoc Committee on Automatic Test Equipment will meet on October 15, 1979 in the Pentagon from 8:30 a.m. to 5:00 p.m.

The Committee will initiate a review and study of the status of automatic test equipment in Air Force electronic equipment and related components. The meeting will be closed to the public in accordance with Section 552b(c), Title 5, United States Code, specifically subparagraph (4).

For further information contact the Scientific Advisory Board Secretariat at (202) 697–8404

**Carol M. Rose,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 79–29623 Filed 9–24–79; 8:45 am]

BILLING CODE 3910–01–M

### USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board Operational Test and Evaluation Advisory Group will hold a meeting at Kirtland Air Force Base, New Mexico, on 23 and 24 October 1979. The meeting will convene at 8:30 a.m. and adjourn at 4:30 p.m. on both days.

The group will receive classified briefings on the operational test and evaluation planned for the Ground Launched Cruise Missile. The meetings will be closed to the public in accordance with Section 552(c) of Title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4811.

**Carol M. Rose,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 79–29624 Filed 9–24–79; 8:45 am]

BILLING CODE 3910–01–M

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 1310-4]

### Environment and Conservation in Non-Nuclear Energy Research and Development; Public Hearing

Note.—This document originally appeared in the **Federal Register** for Tuesday, September 4, 1979. It is reprinted in this issue at the request of the Environmental Protection Agency.

The Environmental Protection Agency (EPA) announces a Public Hearing on Environment and Conservation in the Federal Non nuclear Energy Research and Development Program to be held at the Office of Personnel Management Auditorium, 1900 E Street NW., Washington, D.C., from 9 a.m. to 5 p.m., October 3–5, 1979. The public is invited to attend.

Section 11 of the Federal Non nuclear Energy Research and Development Act of 1974 (Pub. L. 93–577), directs the responsible agency (formerly the Council on Environmental Quality, currently EPA) to carry out a continuing analysis of the Federal non nuclear energy research and development program to evaluate the adequacy of attention to (1) energy conservation methods and environmental protection and (2) environmental consequences of the application of non nuclear energy technologies. The 1979 hearing will focus on the adequacy of attention to environmental protection and energy conservation measures within the Department of Energy (DOE) research, development, and demonstration management system.

Aspects of that system to be discussed include:

- Use of technical and scientific information in decision-making.
- Communication of the rationale for technology development decisions.
- Integration of technology development and environmental research planning systems.

Under the direction of the Act, annual public hearings are held to provide the opportunity for interested individuals or groups to testify. The October public hearings have been preceded by a series of Section 11 regional workshops held during July in Atlanta, Denver, San Francisco, and Pittsburgh. These workshops provided an opportunity for public evaluation of the DOE management system at the regional level and its effect on projects which are being developed locally.

A Report to Congress to be available in January 1980 will summarize the 1979 Section 11 program. The results of the October hearing will be a principal part of the Report. The Report will also include results of four regional workshops already completed, and additional detailed analysis.

Further information about this hearing may be obtained by phoning Paul Schwengels (202) 426–2683 or Francine Jacoff (202) 755–0324.

Individuals or organizations wishing to testify should submit, by September 15, 1979, a brief summary of their intended testimony to: Section 11 Coordinator (RD–681), Office of Environmental Engineering and Technology, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Witnesses may submit written testimony and/or deliver an oral statement of up to ten (10) minutes in length. Additional time will be reserved for questions and comments from a panel of experts. An open period will be provided each day for unscheduled public testimony or questions. Transcripts of the October hearing will be available to the public.

**Steven R. Reznek,**

*Deputy Assistant Administrator for Environmental Engineering and Technology, U.S. Environmental Protection Agency.*

August 29, 1979.

[F.R. Doc. 79-27458 Filed 8-31-79; 8:45 am]

BILLING CODE 6560-01-M

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[FRL 1327-6]

### Coal Mining Point Source Category: Effluent Limitations Guidelines and New Source Performance Standards

**AGENCY:** Environmental Protection Agency.

**ACTION:** Extension of Comment Period on Technical Reports.

**SUMMARY:** This notice extends the period within which interested members of the public may comment on two technical reports previously prepared and made available to the public on behalf of the agency.

**FOR FURTHER INFORMATION CONTACT:** Barry S. Neuman, Office of General Counsel (A–131), Environmental Protection Agency, 401 "M" Street, S.W., Washington, D.C. 20460. (202) 755–0753.

**SUPPLEMENTARY INFORMATION:** On August 14, 1979, EPA published in the **Federal Register** a notice that two technical reports were available for public comment. The reports are "Evaluation of Performance Capability of Surface Mine Sediment Basins" and "Evaluation of Sedimentation Pond Design Relative to Capacity and Effluent Discharge." 44 FR 47595. At that time, the agency stated that all comments on those reports must be postmarked no later than October 1, 1979.

The agency has received several requests to extend this public comment period. Accordingly, because of these requests and the complexity of the issues involved, the agency hereby extends the public comment period on these documents to and including October 19, 1979. All comments postmarked by that date will be considered by the agency in this rulemaking proceeding.

**Swep T. Davis,**

*Acting Assistant Administrator for Water and Waste Management.*

September 20, 1979.

[FR Doc. 79-29765 Filed 9-24-79; 8:45 am]

BILLING CODE 6560-01-M

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## FEDERAL COMMUNICATIONS COMMISSION

### Radio Technical Commission for Marine Services; Meetings

In accordance with Public Law 92–463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 74, "Digital Selective Calling"; Notice of 6th Meeting, Wednesday, October 10, 1979—9:30 a.m.; Thursday, October 11, 1979—8 a.m. (Full-day meetings) Conference Room 8238/8240, Nassif (DOT) Building, 400 Seventh Street SW. (at D Street), Washington, D.C.

**Agenda**

October 10, 1979:

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Meeting of Ship Station Working Group and Coast Station Working Group.

October 11, 1979:

1. Administrative Matters.
2. Working Group Reports.

**CDR J. G. Williams,**

*Chairman, SC–74, U.S. Coast Guard Headquarters, Washington, D.C. Phone: (202) 426–1345.*

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632–6490).

Federal Communications Commission.
**William J. Tricarico,**
*Secretary.*
[FR Doc. 79-29684 Filed 9-24-79; 8:45 am]
**BILLING CODE 6712-01-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 15, 1979, in which this notice appears. 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. 10035-5.

Filing Party: Morris R. Garfinkle, Esquire, Galland, Kharasch, Calkins & Short, 1054 Thirty-First Street, N.W., Washington, D.C. 20007.

Summary: Agreement No. 10035-5 is a proposal by the members of the Celtic Bulk Carriers Joint Service agreement to expand the geographical scope of their authority to include U.S. Gulf ports. They are currently authorized to operate between ports in the United Kingdom, Ireland, and European Continent on the one hand, and ports on the U.S. Atlantic and Pacific Coasts on the other. The modification also proposes to clarify the members' authority relative to the carriage of steel products, forest products, and grain in parcels.

By Order of the Federal Maritime Commission.

Dated: September 19, 1979.

**Joseph C. Polking,**
*Assistant Secretary.*
[FR Doc. 79-29704 Filed 9-24-79; 8:45 am]
**BILLING CODE 6730-01-M**

**[Agreement No. 8670 and 8595]**

### Notice of Cancellation of Agreement

Filing Party: A. J. Iamundo, Secretary, Japan/Great Lakes Memorandum and Great Lakes/Japan Rate Agreement, One World Trade Center, Suite 2211, New York, New York 10048.

Summary: The members of Agreement No. 8670, the Japan/Great Lakes Memorandum, and the members of Agreement No. 8595, the Great Lakes/Japan Rate Agreement, have submitted notification letters duly signed by the parties thereof, advising the Commission of their unanimous decision to cancel the above-named agreements effective July 26, 1979 and July 24, 1979, respectively.

By Order of the Federal Maritime Commission.

Dated: September 19, 1979.

**Joseph C. Polking,**
*Assistant Secretary.*
[FR Doc. 79-29706 Filed 9-24-79; 8:45 am]
**BILLING CODE 6730-01-M**

## FEDERAL RESERVE SYSTEM

### Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than October 15, 1979.

A. *Federal Reserve Bank of New York,* 33 Liberty Street, New York, New York 10045:

1. Barclays Bank Limited and its subsidiary, Barclays Bank International Limited, each a bank holding company whose principal office is in London, England (financing and insurance activities: Alabama, Arizona, Colorado, Florida, Kansas, Indiana, Louisiana, North Carolina, Oklahoma, Tennessee, and Utah): to engage, through their subsidiary, BarclaysAmericanCorporation ("BAC"), and a subsidiary of BAC, Barclays American Credit, Inc., in (1) making direct installment loans to individuals and the purchase of retail installment notes (sales finance), such as loans made to individuals for personal, family or household purposes, the purchase on a discounted basis of contracts and related security agreements arising principally from the sale by dealers of titled goods (including automobiles, mobile homes, travel trailers and campers, and boat and marine equipment) and household goods (including furniture, television sets and appliances) and related wholesale financing consisting of financing dealers' inventories of automobiles, mobile homes and other chattels, and at the election of borrowers from BAC and its subsidiary, sale of credit related insurance, including decreasing term credit life insurance, credit accident and health insurance, and credit property insurance designed to protect the borrower's personal property (*e.g.*, household goods) which serve as collateral for loans from BAC or its subsidiary. The insurance so sold may be underwritten or reinsured by BAC's insurance underwriting subsidiary. These activities would be conducted from offices in Jackson, Tennessee, serving the town of Jackson; Leesville, South Carolina, serving the town of Leesville and the area within a 20-mile

radius of Leesville; Jasper, Alabama, serving the town of Jasper and the area within a 20-mile radius of Jasper; Fort Collins, Colorado, serving the city of Fort Collins; Grand Junction, Colorado, serving the business district and main residential community of Grand Junction; Kokomo, Indiana, serving the central business district and northern residential area of Kokomo; Phoenix, Arizona, serving the northwest quadrant of Phoenix, the town of Glendale and Metro Center Mall area; Mesa, Arizona, serving Mesa and the southwest quadrant of Phoenix; Tucson, Arizona, serving the central business district and eastern residental areas of Tucson; Ogden, Utah, serving the central business district and northern residential area of Ogden; Enid, Oklahoma, serving the town of Enid; Salina, Kansas, serving the central business district and southern residential area of Salina; Baton Rouge, Louisana, serving the central business district and northeast quadrant of Baton Rouge; Pensacola, Florida, serving the central business district area and northwest residential area of Pensacola; and Lake Charles, Louisiana, serving the central business district and southcentral residential area of Lake Charles.

2. Barclays Bank Limited and its subsidiary, Barclays Bank International Limited, London, England (lease financing activities; south central United States and northeastern United States): to engage, through their subsidiary Barclays American Leasing, Inc., in lease financing of personal property. These activities would be conducted from an office in Houston, Texas, serving Arizona, Arkansas, Colorado, Louisiana, New Mexico, Oklahoma and Texas, and an office in Mountainside, New Jersey serving the New England states and Delaware, Maryland, New Jersey, New York, Ohio and Pennsylvania.

3. Citicorp, New York, New York (financing and insurance activities; New York): to engage, through its subsidiary Citicorp Person-to-Person Financial Center, Inc., in making consumer installment personal loans, purchasing and servicing for its own account consumer installment sales finance contracts, making loans for the account of others, making loans to individuals and businesses secured by real and personal property the proceeds of which may be for purposes other than personal, family or household usage; and selling life and accident and health or decreasing or level (in the case of single payment lcans) term life insurance directly related to its extensions of credit and the sale of property and casualty insurance protecting personal and real property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc. These activities would be conducted from an office in Cheyenne, Wyoming and its service area would be expanded to include Laramie, Albany, Platte, Goshen and Carbon Counties, all in Wyoming. This application is for the relocation of an office within the same city and for the expansion of the service area of this office. Comments on this application must be received by October 10, 1979.

B. *Federal Reserve Bank of Atlanta*, 104 Marietta Street NW., Atlanta, Georgia 30303:

Citizens and Southern Holding Company, Atlanta, Georgia (financing and loan servicing activities; Alabama): to engage, through its wholly owned subsidiary, Citizens and Southern Finance Company, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit; operation of a licensed small loan company and installment sales finance company; and servicing loans and other extensions of credit for any person. These activities would be conducted at offices in Mobile, Alabama, serving Mobile County, Alabama.

C. *Federal Reserve Bank of Boston*, 30 Pearl Street, Boston, Massachusetts 02106:

1. Industrial National Corporation, Providence, Rhode Island, (mortgage banking activities; Wisconsin): to engage, through its indirect subsidiary, Amortized Mortgages, Inc., in making, selling, and servicing residential mortgage loans. These activities would be conducted from an office in Green Bay, Wisconsin, serving Brown, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Shawano, and Vilas Counties, Wisconsin. Comments on this application must be received by October 12, 1979.

2. Industrial National Corporation, Providence, Rhode Island, (mortgage banking activities; Wisconsin): to engage, through its subsidiary, Mortgage Associates, Inc., in making, selling, and servicing residential mortgage loans. These activities would be conducted from an office in Roseville, Minnesota, serving the following counties in Minnesota: Chisago, Ramsey, Washington, and the eastern half of Dakota. Comments on this application must be received by October 12, 1979.

D. *Federal Reserve Bank of San Francisco*, 400 Sansome Street, San Francisco, California 94120:

D. Patagonia Corporation, Tucson, Arizona (commercial finance activities; Missouri and Texas): to engage, through its subsidiary, Patagonia Leasing Company, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance company. These activities would be conducted from offices in Kansas City, Missouri, and Houston, Texas, serving 28 States in the eastern, southern, midwest and southwestern United States. Comments on this application must be received by October 12, 1979.

E. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, September 14, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29645 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

## Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should indentify clearly the specific application to which

they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than October 17, 1979.

A. *Federal Reserve Bank of New York,* 33 Liberty Street, New York, New York 10045:

Barclays Bank Limited and its subsidiary, Barclays Bank International Limited, each a bank holding company whose principal office is in London, England (financing activities: Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Ohio, Pennsylvania (western part), Tennessee (central and western parts), West Virginia and Wisconsin): to engage, through their subsidiary, BarclaysAmerican/Commercial, Inc., in factoring and commercial finance and making other commercial loans. These activities would be conducted from an office in Louisville, Kentucky serving the eleven states (or portions thereof as indicated) listed above.

B. *Federal Reserve Bank of Chicago,* 230 South LaSalle Street, Chicago, Illinois 60690:

1. Walter E. Heller International Corporation, Chicago, Illinois (commercial finance; Ohio, Pennsylania): to engage, through its subsidiary Walter E. Heller & Company, in commercial finance activities. Such activities will be conducted at office facilities located in Cleveland, Ohio, serving Ohio and Pennsylvania. Comments for this applicaiton must be received by October 15, 1979.

2. First Chicago Corporation, Chicago, Illinois (mortgage banking activities; Florida, Oregon, Idaho, Washington, Arizona, Nevada, Utah): to engage, through its subsidiary, First Chicago Realty Services Corporation, in making, acquiring for its own account and for the account of others, loans and other extensions of credit secured by real estate mortgages and servicing such loans and other extensions of credit. These activities would be conducted from offices in Miama, Florida, serving Florida; Seattle, Washington, serving Oregon, Idaho, and Washington; and Scottsdale, Arizona, serving Arizona, Utah, and Nevada.

3. Walter E. Heller International Corporation, Chicago, Illinois (commercial finance and rediscounting activities; Southeastern United States): to engage, through its subsidiary, Walter E. Heller & Company, in commercial finance and rediscounting activities. These activities would be conducted from an Office in Columbia, South Carolina, serving primarily South Carolina, but also North Carolina, Georgia, Florida, Tennessee, Alabama, Mississippi, Arkansas and Louisiana.

4. Walter E. Heller International Corporation, Charlotte, North Carolina (commercial finance and rediscounting activities; Southeastern United States): to engage, through its subsidiary, Walter E. Heller & Company, in commercial finance and rediscounting activities. These activities would be conducted from an office in Charlotte, North Carolina, but also South Carolina, Georgia, Florida, Tennessee, Alabama, Mississippi, Arkansas and Louisiana.

C. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

Bankamerica Corporation, San Franciso, California (financing, leasing, mortgage banking, and investment advisor activities; Texas): to engage, through it subsidiary, BA Mortgage and International Realty Corporation, in making or acquiring mortgage loans for its own account or for the account of others; in servicing loans and other extensions of credit; in leasing real property or acting as agent, broker or advisor in the leasing of real property, in accordance with the Board's Regulation Y; and in acting as investment or financial advisor to the extent of providing portfolio investment advice to others. These activities would be conducted from an office in San Antonio, Texsas, serving the State of Texas.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, September 17, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29646 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

## First Bankshares Corp. of S. C.; Proposed Retention of First National Credit Life Insurance Co.

First Bankshares Corp. of S. C., Columbia, South Carolina, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain voting shares of First National Credit Life Insurance Company, Columbia, South Carolina.

Applicant states that the proposed subsidiary would continue to engage in the activity of underwriting credit life insurance that is directly related to extensions of credit by Applicant's subsidiaries. These activities would continue to be performed from offices of Applicant's subsidiary in Columbia, South Carolina, and the geographic area to be served is the State of South Carolina. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether approval of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 17, 1979.

Board of Governors of the Federal Reserve System, September 17, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29647 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

## Central Bancshares, Inc.; Formation of Bank Holding Company

Central Bancshares, Inc., McKinney, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Central National Bank of McKinney, McKinney, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 17, 1979. Any comment on an application that

requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 17, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29640 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

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## First American Bank Corp.; Acquisition of Bank

First American Bank Corporation, Kalamazoo, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Farmers and Merchants State Bank of Sebewaing, Sebewaing, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 18, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 18, 1979.

**Girffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29644 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

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## First City Bancorporation of Texas, Inc.; Acquisition of Bank

First City Bancorporation of Texas, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 35.9 percent of the voting shares of Citizens State Bank, Sealy, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 15, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 14, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29642 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

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## First Haskell Corp.; Formation of Bank Holding Company

First Haskell Corporation, Haskell, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The First Bank of Haskell, Haskell, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

First Haskell Corporation, Haskell, Oklahoma, has also applied, pursuant to section 4(c)(8) of the Bank Holding company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of First Haskell Business Trust, Haskell, Oklahoma, and first Haskell Insurance Agency, Inc., Haskell, Oklahoma.

Applicant states that the sole business activity to be performed by First Haskell Business Trust would be to own stock in First Haskell Insurance Agency, Inc., the proposed activities of which are the offering of credit life and accident and health insurance in connection with extensions of credit by the Bank. These activities would be performed from offices of Appliant's subsidiary in Haskell, Oklahoma, and the geographic areas to be served are within an 8 to 10 mile radius of Haskell, Oklahoma. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing to the Reserve Bank to be received not later than October 18, 1979.

Board of Governors of the Federal Reserve System, September 18, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29633 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

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## First International Bancshares, Inc.; Acquisition of Bank

First International Bancshares, Inc., Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of First National Bank in Conroe, Conroe, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 15, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 14, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29643 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

### Kiowa Bancshares, Inc.: Formation of Bank Holding Company

Kiowa Bancshares, Inc., Roosevelt, Oklahoma, has applied for the Board's approval under section 3 (a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Security State Bank, Roosevelt, Oklahoma. The factors that are considered in acting on the application are set forth in section 3 (c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 18, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 18, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29634 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

### National Bancorporation, Inc.; Formation of Bank Holding Company

National Bancorporation, Inc., Traverse City, Michigan, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of National Bank and Trust Company of Traverse City, Traverse City, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 15, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 14, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29636 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

### Navigation Bancshares, Inc.; Formation of Bank Holding Company

Navigation Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85.6 per cent of the voting shares of Navigation Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 17, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 17, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29635 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

### Rhea Bancshares, Inc.; Formation of Bank Holding Company

Rhea Bancshares, Inc., Dayton, Tennessee, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Dayton Bank & Trust Company, Dayton, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 15, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 14, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29637 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

### Tsvaiter Financial Corp.; Formation of Bank Holding Company

Tsvaiter Financial Corporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Garfield Ridge Trust and Savings Bank, Chicago, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 18, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 18, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29632 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

### United Bank Corp.; Formation of Banking Holding Company

United Bank Corp., Cocoa Beach, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares (less directors' qualifying shares) of United National Bank, Cocoa Beach, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 12, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 12, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29641 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

### Walker Banshares Corp.; Formation of Bank Holding Company

Walker Banshares Corp., Crawfordsville, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 99 per cent or more of the voting shares of Walker State Bank, Walker, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 17, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 17, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29639 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

### Western Bancshares, Inc.; Formation of Bank Holding Company

Western Bancshares, Inc., St. Paul, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 94.7 per cent of the voting shares of Western State Bank of St. Paul, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 17, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 17, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29638 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

### Wolbach Insurance Agency, Inc.; Acquisition of Bank

Wolbach Insurance Agency, Inc., Wolbach, Nebraska, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 24 percent or more of the voting shares of Broken Bow Enterprises, Inc., Broken Bow, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 11, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 14, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-29618 Filed 9-24-79; 8:45 am]

BILLING CODE 6210-01-M

## GENERAL ACCOUNTING OFFICE

### Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on September 19, 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 the 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 FTC request 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 request, comments (in triplicate) must be received on or before October 15, 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, D.C. 20548.

Futher information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

**Federal Trade Commission**

The FTC requests clearance of a new, voluntary, single-time questionnaire which will be sent to alternative real estate brokers (those offering services and prices significantly different from prevailing practices). The questionnaire will be sent to alternative brokerage firms throughout the country to obtain information on the market areas, operations and problems of those brokers. The FTC estimates respondents will number approximately 1,050 and that respondent burden will average 1½ hours per questionnaire.

**Norman F. Heyl,**

*Regulatory Reports, Review Officer.*

[FR Doc. 79-29612 Filed 9-24-79; 8:45 am]

BILLING CODE 1610-01-M

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### Consumer Participation; Open Meeting

*Correction*

In FR Doc. 79-24908 appearing on page 47619 in the issue of Tuesday, August 14, 1979, in the paragraph "For

Further Information Contact," the telephone number for the Consumer Affairs Officer now reading "(216) 552–4844" should have read "(216) 522–4844."

BILLING CODE 1505-01-M

## Office of Human Development Services

### Administration for Children, Youth and Families; Establishment

**AGENCY:** Office of Human Development Services, DHEW.

**ACTION:** Notice of Advisory Board Establishment.

**PURPOSE:** The Assistant Secretary for Human Development Services announces the establishment by the Secretary of Health, Education, and Welfare of the Advisory Board on Child Abuse and Neglect.

**DATES:** The charter for this Board was signed by the Secretary of Health, Education, and Welfare on August 29, 1979. This charter will expire, unless renewed by appropriate action two years from the date it was signed.

**FOR FURTHER INFORMATION CONTACT:** Frank Ferro, Associate Chief, Children's Bureau, Administration for Children, Youth and Families, Office of Human Development Services, Department of Health, Education, and Welfare, Room 2030, Donohoe Building, P.O. Box 1182 Washington, D.C. 20013.

**SUPPLEMENTAL INFORMATION:** The authority for this Board is Public Law 93–247, Section 6, as amended by Pub. L. 93–644 and Pub. L. 95–266. The Board will assist the Secretary in coordinating programs and activities related to the prevention, identification and treatment of child abuse and neglect planned, administered or assisted under Pub. L. 93–247, as amended, with such programs and activities planned, administered or assisted by other Federal agencies. The Advisory Board will also assist the Secretary in the development and updating, as appropriate, of the Federal Standards for Child Abuse and Neglect Prevention and Treatment Programs and Projects. The Advisory Board will also review and submit directly to the President and Congress a comprehensive plan for the coordination of the goals, objectives, and activities of all agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect.

The Advisory Board will submit an annual report to the Secretary through the Assistant Secretary for Human Development Services not later than October 31 of each year, which shall contain, at a minimum a list of members and their business addresses, dates and places of meetings, a list of federally funded child abuse and neglect projects and programs, and a summary of the Advisory Board's activities and recommendations made during the previous fiscal year.

Dated: September 19, 1979.

**Arabella Martinez,**

*Assistant Secretary for Human Development Services.*

[FR Doc. 79–29663 Filed 9–24–79; 8:45 am]

BILLING CODE 4110-92-M

# DEPARTMENT OF THE INTERIOR

## Bureau of Land Mangement

### Intergovernmental Planning Program Gulf of Mexico and South Atlantic Regional Technical Working Groups; Meeting

As authorized by the Secretary of the Interior and pursuant to 43 CFR Part 1784 and 43 U.S.C. 1739(d), a meeting of the Intergovernmental Planning Program's (IPP) Gulf of Mexico and South Atlantic Regional Technical working Groups will be held on October 30, 1979, from 10:00 a.m. to 3:30 p.m., in the Renaissance Room, 2nd Floor of the LePavillon Hotel, 833 Poydras Street (at Baronne Street), New Orleans, Louisiana.

The agenda of the meeting is as follows:

A. Introduction of the leasing process and proposed OCS oil and gas lease sale schedule.

B. Administrative and operating details of the IPP.

C. Presentation of the FY 81 Proposed Regional Studies Plan.

The meeting is open to the public. Minutes of the meeting will be available for public inspection two weeks after the meeting at the New Orleans OCS Office.

Further information in regard to this meeting can be obtained from Sydney H. Verinder at the New Orleans OCS Office, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130, telephone number (504) 589–6541.

**John L. Rankin,**

*Manager, New Orleans Outer, Continental Shelf Office.*

September 17, 1979.

[FR Doc. 79–29625 Filed 9–24–79; 8:45 am]

BILLING CODE 4310-84-M

## Bureau of Land Management

[F-20519]

### Alaska Native Claims Selection

By Secretarial Proclamation of May 20, 1943, pursuant to Sec. 2 of the Act of May 1, 1936 (49 Stat. 1250; 48 U.S.C. Sec. 358a), certain lands in the Yukon Chandalar area were designated as an Indian Reservation and set aside for the use and occupancy of the Native inhabitants of certain villages. This reservation has been surveyed as U.S. Survey No. 5220, the Venetie Indian Reservation.

Section 19(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 710; 43 U.S.C. 1601, 1618 (1976)) (ANCSA), revoked, subject to any valid existing rights of non-Natives, the various reserves set aside for Native use of administration of Native affairs. Public Land Order 5156, signed February 4, 1972, withdrew, subject to valid existing rights, the lands set aside for Native use or for administration of Native affairs in furtherance of the right of any Native village corporation or corporations to acquire title to the surface and subsurface estates in the reservations pursuant to Sec. 19(b) of ANCSA.

On November 10, 1973, the Boards of Directors for the Venetie Indian Corporation and the Neets'ai Corporation certified that their stockholders had elected to acquire title to the surface and subsurface estates in the reserve as provided by Sec. 19(b) of the ANCSA. Under 43 CFR 2654.2(a), submission of such certifications constituted application to acquire reserve lands.

### I. State Selection Applications Rejected in Part

The State of Alaska filed general purposes selection applications F–15169 and F–15170 on January 21, 1972, as amended, for all unpatented lands within Tps. 27 and 28 N., R. 2 E., T. 28 N., R. 3 E., and T. 29 N., R. 3 E., Fairbanks Meridian, Alaska pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)). These selections included lands within U.S. Survey 5220, the Venetie Indian Reservation, reserved by the Proclamation of May 20, 1943, for the Native inhabitants. On December 18, 1971, Sec. 19(a) of the ANCSA revoked the reserve while Sec. 19(b) withdrew the reserve for a period of 2 years for possible election by the Native corporations. The corporations elected to receive title to the former reserve on November 10, 1973. Section 6(b) of the Alaska Statehood Act

provides that the State may select only *vacant, unappropriated* and *unreserved* public lands in Alaska.

Therefore, the State selection applications are rejected as to the following described lands:

**Fairbanks Meridian, Alaska (Unsurveyed)**

*State Selection F–15169*

T. 27 N., R. 2 E.
That portion of the township within U.S. Survey 5220.
Containing approximately 5,590 acres.
T. 28 N., R. 2 E.
That portion of the township within U.S. Survey 5220.
Containing approximately 120 acres.
T. 28 N., R. 3 E.
That portion of the township within U.S. Survey 5220.
Containing approximately 14,380 acres.
Aggregating approximately 20,090 acres.

*State Selection F–15170*

F. 29 N., R. 3 E.
That portion of the township within U.S. Survey 5220.
Containing approximately 200 acres.
Total aggregated acreage approximately 20,290 acres.

Further action on the subject State selection applications as to those lands not rejected herein will be taken at a later date.

**II. Alaska Native Claims Settlement Act Section 3(e) Application Rejected**

Section 3(e) of ANCSA defines "public lands" as:

* * * all Federal lands and interests therein located in Alaska except: (1) the smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installation * * *

On March 3, 1978, the Secretary of the Interior, in his final decision document for the ANCSA Implementation Review, decided that:

The Secretary's authority to determine the smallest practicable tract involved with a Federal installation under section 3(e)(1) of the ANCSA applies only to the Statutory withdrawals made by sections 11 and 16(a) and, subsequently to those lands selected by Village and Regional corporations from such withdrawal areas pursuant to sections 12 and 16(b).

The Secretary's authority to make such determinations does not extend to the various reserves revoked pursuant to Sec. 19(a) of ANCSA and made available for acquisition by village corporations pursuant to Sec. 19(b). Therefore, ANCSA Sec. 3(e) application F–48314 is rejected in its entirety:

In the vicinity of Venetie, T. 25 N., R. 6 E., Fairbanks Meridian, Alaska, .99 acre used by the Department of the Army for a National Guard Armory.

When this decision becomes final, application F–48314 will be closed of record.

**III. Reserve Lands Proper for Village Acquisition Approved for Patent**

Section 19 of ANCSA provides that if the stockholders of the concerned village corporations elect to take former reserve lands:

* * * the Secretary [of the Interior] shall convey the land to the Village Corporation or Corporations, subject to valid existing rights as provided in subsection 14(g) * * *

As to the lands described below, application F–20519 is properly filed and meets the requirements of ANCSA and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under, or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, containing 1,799,927.65 acres, are considered proper for acquisition by Neets'ai Corporation and Venetie Indian Corporation, and are hereby approved for conveyance pursuant to Sec. 19(b) of the Alaska Native Claims Settlement Act:

U.S. Survey No. 5220, Alaska, comprising the Venetie Indian Reservation.
Containing 1,799,927.65 acres.

The grant of lands herein shall be to Neets'ai Corporation and Venetie Indian Corporation as tenants in common in the following proportions:

Neets'ai Corporation, an undivided 147/303 interest.
Venetie Indian Corporation, an undivided 156/303 interest.

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act.

The grant of the above/described lands shall be subject to:

Valid existing rights, therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec.6(g) (1976))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act, any valid existing right recognized by the Alaska Native Claims Settlement Act shall continue to have whatever right of access as is now provided for under existing law.

After these lands have been patented there will be no further action and the case will be closed.

The lands conveyed will include the Old Mission Church, which has been nominated for the National Register of Historic Places, and is located in Arctic Village.

In accordance with Departmental regulations 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the TUNDRA TIMES. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until October 25, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Neets'ai Corporation, Arctic Village, Alaska 99722.
Venetie Indian Corporation, Venetie, Alaska 99781.
State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.
Department of the Army, Alaska District, Corps of Engineers, P.O. Box 7002, NPARE A–Q, Anchorage, Alaska 99510.

**Sue A. Wolf,**

*Chief, Branch of Adjudication.*

[FR Doc. 79–29695 Filed 9–24–79; 8:45 am]
BILLING CODE 4310–84–M

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**New Mexico Wilderness Inventory**

The 30-day delay in implementing the wilderness inventory decisions

identified in the Federal Register, Volume 44, No. 131, Friday, July 16, 1979, page 39622 has ended. The decision became effective August 10, 1979. Also, a correction of the July 6 announcement is noted.

September 17, 1979.

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Announcement.

**SUMMARY:** The decision to drop certain lands in New Mexico from further consideration for wilderness designation is now in effect. The decision to drop (a) lands and units previously recommended for intensive inventory and (b) inventory units which received some support for intensive inventory was not appealed.

The July 6, 1979 notice states incorrectly that the 90-day public comment period ended July 9, 1979. The correct date was June 9, 1979.

**Billy M. Brody,**

*Acting State Director.*

[FR Doc. 79-29702 Filed 9-24-79; 8:45 am]

**BILLING CODE 4310-84-M**

## Oregon; Motorized Vehicles on Public Lands Restriction of Use

Notice is hereby given that off-road travel by motorized vehicles on certain Public lands within the areas known as the Honeycombs and Jordan Crater Research Natural Area is prohibited in accordance with the provisions of 43 CFR Subpart 8342—Designation of Areas and Trails. These closures do not apply to emergency, law enforcement and federal or other government vehicles while being used for official or emergency purposes.

The areas affected by this closure notice are as follows:

### Honeycombs

The Honeycombs area is located approximately thirty-two miles southwest of Homedale, Idaho. The legal description of the closed lands is:

**Williamette Meridian**

T.24S., R44E.,
Sec. 14, S½SW¼, SW¼SW¼SE¼, S½NW¼SW¼SE¼, W½SE¼SW¼SE¼;
Sec. 15, SW¼, S½SE¼, NW¼SE¼, SW¼NE¼SE¼, SW¼NW¼NE¼SE¼, S½SE¼NE¼SE¼, NW¼SE¼NE¼SE¼;
Sec. 22, E½, N½NW¼;
Sec. 23, ALL;
Sec. 24, S½, S½N½, S½N½N½, N½N½NE¼, S½NW¼NW¼, S½NE¼NE¼NW¼;
Sec. 25, ALL;
Sec. 26, ALL;
Sec. 27, E½, SW¼SE¼NW¼;
Sec. 28, SE¼;
Sec. 33, NE¼;
Sec. 34, ALL;
Sec. 35, ALL.
T.24S., R.45E.,
Sec. 19, ALL;
Sec. 30, W½, W½E½;
Sec. 31, W½, W½E½.
T.25S., R.44E.,
Sec. 1, ALL;
Sec. 2, ALL;
Sec. 3, E½, NE¼NW¼;
Sec. 10, NE¼;
Sec. 11, ALL;
Sec. 12, N½, SW¼, N½SE¼, SW¼SE¼, N½SE¼SE¼, SW¼SW¼SE¼, N½SE¼SE¼SE¼;
Sec. 13, NW¼, W½NE¼, W½E½NE¼, N½N½SW¼, N½NW¼SE¼;
Sec. 14, E½NE¼.
T.25S., R.45E.,
Sec. 6, W½, W½E½, E½SE¼;
Sec. 7, N½NW¼, SW¼NW¼, NW¼SE¼NW¼, W½NE¼SE¼NW¼, NW¼SW¼NW¼SW¼SW¼, NW¼NE¼SW¼SW¼.

Total Acres: 11,932.5.

### Jordan Crater Research Natural Area

Jordan Crater Research Natural Area is located approximately thirty miles northwest of Jordan Valley, Oregon. The legal description of the closed lands is:

**Willamette Meridian**

T.27S., R.43E.,
Secs. 33 to 36, inclusive.
T.28S., R.43E.,
Secs. 1 to 3, inclusive;
Sec. 4, lots 1, 2, and 4, S½N½ and S½;
Sec. 5, ALL;
Sec. 8 to 11, inclusive;
Sec. 12, W½ and SW¼SE¼;
Secs. 13 to 17, inclusive;
Sec. 20, N½W½SW¼, SE¼SW¼, SW¼SE¼, and E½SE¼;
Secs. 21 to 29, inclusive;
Secs. 32 to 36, inclusive.
T.28S., R.44E.,
Sec. 18, lots 3 and 4, SE¼SW¼, and SW¼SE¼;
Sec. 19, ALL;
Sec. 20, S½SW¼;
Sec. 28, W½W½;
Secs. 29 to 32, inclusive.
T.29S., R.43E.,
Secs. 1 to 5, inclusive.
T.29S., R.44E.,
Sec. 4, W½;
Sec. 5, lots 1 to 4, inclusive, S½N½, N½SW¼, and W½SE¼;
Sec. 7, ALL;
Sec. 8, S½NE¼, W½ and SE¼;
Sec. 9, W½, and W½SE¼;
Sec. 16, W½NE¼, and E½NW¼.

Total Acres: 31,394.7

The use of the identified public lands in the two described areas by off-road vehicles in the past have destroyed or severely damaged botanical, geological, zoological, wilderness and scenic values. After consultation with various interest groups and individuals, and after reviewing management objectives for the two areas, off-road vehicle closures were determined to be necessary to protect the aforementioned values from further disturbance and/or destruction. The need for off-road vehicle closures were discussed at formal public meetings and informally, through public contact, with various individuals and groups.

The off-road vehicle closures are effective immediately.

Maps depicting the off-road vehicle closure areas described above are available at the Bureau of Land Management, Vale District Office, 365 A Street West (P.O. Box 700), Vale, Oregon 97918.

Dated: September 20, 1979.

**Fearl M. Parker,**

*District Manager.*

[FR Doc. 79-29701 Filed 9-24-79; 8:45 am]

**BILLING CODE 4310-84-M**

## Bureau of Reclamation

## Boulder Canyon Project, Hoover Powerplant Modification; Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an environmental impact statement on a proposed project to increase the power generating capacity of Hoover Dam. The alternative methods for increasing power which will be discussed in the document include: (1) building an additional powerhouse with two 250-megawatt generators, (2) replacing two existing generators (Units A–8 and A–9) with one 350-megawatt generator, and (3) installing a reversible generator allowing pumped-back storage capability.

The alternatives to be considered have evolved through the multi-objective planning process. Federal, State, and local agencies have been informed of the proposed project and invited to participate in the planning process. Public meetings have been held to provide information and solicit opinions related to the project. The next public meeting will be held in the Las Vegas area during October 1979. The exact place and time will be announced locally when they have been determined.

Pursuant to the new Council on Environmental Quality regulations, the meetings will also serve as scoping sessions to identify significant environmental issues that should be addressed in the environmental impact statement.

The advance draft environmental impact statement is scheduled to be completed and available for review and comment by May 31, 1980.

For further information about the proposed action and the environmental

impact statement, contact Mr. Martin Einert, Bureau Reclamation, P.O. Box 427, Boulder City, Nevada 89005, telephone (702) 293–8510.

Dated: September 17, 1979.

**Clifford J. Barrett,**

*Acting Commissioner.*

[FR Doc. 79–29370 Filed 9–24–79; 8:45 am]

BILLING CODE 4310–09–M

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## Fish and Wildlife Service

### Endangered Species Permit; Receipt of Application

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Miller Park Zoo Division, Parks and Recreation Department, P.O. Box 3157, Bloomington, Illinois 61701; PRT 2–4603.

The applicant requests a permit to import and purchase in foreign commerce one female captive-born Sumatran tiger (*Panthera tigris smuatrae*) from the Rotterdam Zoo, Netherlands for enhancement of propagation.

Applicant: F. M. Driscoll, Lexington Pheasantry, 219 Cowlitz Dr., Kelso, Washington 98626; PRT 2–4632.

The applicant requests a permit to export in foreign commerce two Elliot's pheasants (*Syrmaticus ellioti*) to Mr. Jack Schuiteman, Devlin, Ontario, Canada for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia or by writing to the Director, U.S. Fish and Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications on or before October 25, 1979 by submitting written data, views, or arguments to the Director at the above address.

Dated: September 13, 1979.

**Donald G. Donahoo,**

*Chief, Permit Branch Federal Wildlife Permit Office, Fish and Wildlife Service.*

[FR Doc. 79–29626 Filed 9–24–79; 8:45 am]

BILLING CODE 4310–55–M

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### Endangered Species Permit; Receipt of Application

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: San Diego Wild Animal Park, Zoological Society of San Diego, Route 1, Box 725E, Escondido, California 92025; PRT 2–4575.

The applicant requests a permit to export twelve (12) captive-bred Arabian oryx (*Oryx leucoryx*) to Oman (S.E. Arabia) in a cooperative agreement with the Government of Oman for release into its native habitat for enhancement of propagation and survival.

Applicant: Cheyenne Mountain Zoological Park, P.O. Box 158, Colorado Springs, Colorado 80901; PRT 2–4634.

The applicant requests a permit to purchase in interstate commerce one female white-handed gibbon (*Hylobates lar*) from the Birmingham Zoo, Birmingham, Alabama for enhancement of propagation.

Applicant: Memphis Zoological Gardens, 200 Galloway, Overton Park, Memphis, Tennessee 38112; PRT 204643.

The applicant requests a permit to purchase in interstate commerce two female captive-born gaur (*Bos gaurus*) from the Henry Doorly Zoo, Omaha, Nebraska for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia or by writing to the Director, U.S. Fish and Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications on or before October 25, 1979 by submitting written data, views, or arguments to the Director at the above address.

Dated: September 13, 1979.

**Donald G. Donahoo,**

*Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.*

[FR Doc. 79–29627 Filed 9–24–79; 8:45 am]

BILLING CODE 4310–55–M

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### Endangered Species Permit; Receipt of Application

Applicant: Dr. Paul Licht, University of California, Berkeley, California 94720.

The applicant requests a permit to import tissue samples, blood samples, eggs and hatchlings of green (*Chelonia mydas*), olive ridley (*Lepidochelys olivacea*), hawksbill (*Eretmochelys imbricata*), loggerhead (*Caretta caretta*) and leatherback (*Dermochelys coriacea*) sea turtles for scientific research.

Humane care and treatment during transport has been indicated by the applicant. Salvaged specimens will be used whenever possible.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2–1125. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before October 25, 1979. Please refer to the file number when submitting comments.

Dated: September 18, 1979.

**Donald G. Donahoo,**

*Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.*

[FR Doc. 79–29628 Filed 9–24–79; 8:45 am]

BILLING CODE 4310–55–M

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### Endangered Species Permit; Receipt of Application

Applicant: Southeast Fisheries Center, National Marine Fisheries Service, Miami, Florida 33149.

The applicant requests a permit to take leatherback (*Dermochelys coriacea*), hawksbill (*Eretmochelys imbricata*), Atlantic Ridley (*Lepidochelys kempi*), olive ridley (*Lepidochelys olivacea*), green (*Chelonia mydas*) and loggerhead (*Caretta caretta*) sea turtles to continue scientific research activities.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2–4481. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before October 25, 1979. Please refer to the file number when submitting comments.

Dated: September 18, 1979.

**Donald G. Donahoo,**

*Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.*

[FR Doc. 79-29629 Filed 9-24-79; 8:45 am]

BILLING CODE 4310-55-M

## Endangered Species Permit; Receipt of Application Amendment

An "Endangered Species Permit—Notice of Receipt of Application" was published in the **Federal Register**, Volume 44, No. 153, Tuesday, August 7, 1979 including a request by the New York Zoological Society (NYZS) to import as a gift three white-naped cranes (*Grus vipio)* from the Hong Kong Agricultural and Fisheries Department (HKAFD). The HKAFD has offered the NYZS one additional crane and consequently, the NYZS requests an amendment to their Notice of Receipt of Application to read ". . . four white-naped cranes . . ." Comments on this application must be submitted to the Director at the following address on or before October 25, 1979: Director, U.S. Fish and Wildlife Service (WPO), U.S. Department of the Interior, Washington, D.C. 20240.

Dated: September 18, 1979.

**Donald G. Donahoo,**

*Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.*

[FR Doc. 79-29630 Filed 9-24-79; 8:45 am]

BILLING CODE 4310-55-M

## Issuance of Permit for Marine Mammals and Endangered Species

On August 16, 1979, a Notice was published in the **Federal Register** (44 FR 160-47988), that an application had been filed with the Fish and Wildlife Service by Dr. Ursala Rowlatt, Abraham Lincoln School of Medicine, Chicago, IL for a permit to import 35 dugong (*Dugong dugon*) hearts that are preserved in formalin for scientific research.

Notice is hereby given that on September 14, 1979, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Endangered Species Act of 1972 (16 U.S.C. 1539), the Fish and Wildlife Service issued a permit (PRT 2-4371), to Dr. Rowlatt authorizing the importation of the dugong hearts subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated: September 18, 1979.

**Donald G. Donahoo,**

*Chief, Permit Branch, Federal Wildlife Permit Office Fish and Wildlife Service.*

[FR Doc. 79-29631 Filed 9-24-79; 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 14, 1979. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional time to prepare comments should be submitted by October 5, 1979.

**Charles A. Herrington,**

*Acting Keeper of the National Register.*

**ALABAMA**

*Baldwin County*

Bay Minette vicinity, *Cantonment Monpelier Site.*

**CALIFORNIA**

*Mariposa County*

Yosemite National Park, *Camp Curry Historic District,* Yosemite Valley.

*Santa Barbera County*

*Santa Barbara Island Archeological District.*
*San Miguel Island Archeological District.*
Santa Barbara vicinity, *Madulce Guard Station and Site,* 40 mi. N of Santa Barbara.

*Ventura County*

*Anacapa Island Archeological District.*

**GEORGIA**

*Chatham County*

Savannah vicinity, *Lebanon Plantation,* SW of Savannah.

*Clarke County*

Athens, *Morton Building,* 199 W. Washington St.

*Houston County*

Henderson, *Davis-Felton Plantation,* NW of Henderson on Felton Rd.

*McDuffie County*

Thomson, *Hickory Hill (Thomas E. Watson House)* Hickory Hill Dr. and Lee St.

*Richmond County*

Augusta, *Reid-Jones-Carpenter House,* 2249 Walton Way.

**IOWA**

*Woodbury County*

Sioux City, *Sioux City Baptist Church,* 1301 Nebraska Ave.

**LOUSIANA**

*Caddo Parish*

Shreveport, *Blanchard Building,* 627 Milam St.
Shreveport, *Shepherd Building,* 629 Milam St.

*DeSota Parish*

Mansfield, *Mundy-McFarland House,* 200 Welsh St.

*East Carroll Parish*

Lake Providence, *Lake Providence Historic District,* Lake, Levee, and Scarborough Sts.

*Iberia Parish*

New Iberia, *Magnolias, The,* 115 Jefferson St.

*Natchitoches County*

Bermuda vicinity, *Maison de Marie Therese,* 1 mi. NW of Bermuda.
Natchitoches, *Normal Hill Historic District,* Northwestern State University campus.

*Rapides Parish*

Alexandria, *Bentley Hotel,* 801 3rd St.
Alexandria, *Bolton, James Wade, House,* 1330 Main St.
Alexandria, *Cook House,* 222 Florence Ave.
Alexandria, *Rapides Bank and Trust Company Building,* 933 Main St.

*St. James Parish*

Convent, *St. Michael's Church Historic District,* LA 44.

**MAINE**

*Penobscot County*

Bangor, *West Market Square Historic District,* W. Market Sq.

**MISSISSIPPI**

*Adams County*

Natchez vicinity, *Pine Ridge Church,* NE of Natchez at Pine Ridge Rd. and MS 554.

*Hinds County*

Jackson, *Farish Street Neighborhood Historic District,* Roughly bounded by Amite, Mill, Fortification and Lamar Sts.
Jackson, *Spengler's Corner Historic District,* E. Capitol, N. State and N. President Sts.

*Jefferson County*

Lorman vicinity, *China Grove (McDonald Place)* W of Lorman off U.S. 61.

*Lafayette County*

College Hill, *College Church,* College Hill Rd.

*Warren County*

Vicksburg, *Yazoo and Mississippi Valley Depot,* 500 Grove St.

**MISSOURI**

*Clark County*

Wayland vicinity, *Sickles Tavern,* NW of Wayland on MO B.

**NEW HAMPSHIRE**

*Belknap County*

Tilton, *Tilton Island Park Bridge*, Tilton Island Park.

*Coos County*

Berlin, *Mount Jasper Mine*, Off NH 110.

*Rockingham County*

Chester, *Chester Village Cemetery*, NH 102 and NH 121.

*Strafford County*

Dover, *Wyatt, Samuel, House*, 7 Church St.

**NEW MEXICO**

*Los Alamos County*

White Rock vicinity, *Tshirege Site*, 1.75 mi. W of White Rock.

*Santa Fe County*

Espanola vicinity, *Cave Kiva, Plaza Site and Game Trap*, NW of Espanola.
Espanola vicinity, *Potsuwi'I Sites*, S of Espanola.

*Santa Fe County*

Sante Fe vicinity, *Acequia System of El Rancho de las Golondrinas*, 12 mi. SW of Santa Fe

**NEW YORK**

*Orange County*

Tuxedo Park, *Tuxedo Park*, Tuxedo Lake and environs.

*St. Lawrence County*

Potsdam, *Market Street Historic District*, Market and Raymond Sts.

**NORTH CAROLINA**

*Edgecombe County*

Tarboro, *Tarboro Multiple Resource Area*. This area includes: *Tarboro Historic District; Edgecombe Agricultural Works; Eastern Star.*
*Baptist Church*, Church and Wagner Sts.; *Oakland Plantation*, Edmondson St.; *Railroad Depot Complex*, Off N. Main St., *St. Paul Baptist Church*, Edmondson St.

**NORTH DAKOTA**

*Cass County*

Fargo, *deLendrecie's Department Store*, 620–624 Main Ave.

*Ramsey County*

Devils Lake vicinity, *Edwards House*, NW of Devils Lake

*Sheridan County*

Goodrich vicinity, *Winter House*

*Williams County*

Williston, *Old U.S. Post Office*, 322 Main St.

**OREGON**

*Clackamas County*

Marquam vicinity, *Albright, Daniel, Farm*, E of Marquam.
Oregon City, *Cross, Harvey, House*, 809 Washington St.

*Coos County*

Myrtle Point, *Reorganized Church of Latter Day Saints*, 7th and Maple Sts.

*Douglas County*

Elkton vicinity, *Brown, Henry, House*, W of Elkton off OR 38.

*Josephine County*

Grants Pass, *Newell, Edwin, House*, 591 SW. G St.

*Lane County*

Eugene, *Schaefers Building*, 1001 Willamette St.
Eugene vicinity, *Campbell, Robert E., House*, E of Eugene at 890 Aspen Dr.

*Marion County*

St. Louis vicinity, *Miller, George Boone, Barn*, W of St. Louis at 16393 Frenchy Prairie, NE.

**TEXAS**

*Gregg County*

Longview, *Everett Building*, 214–216 Fredonia St.

*Tarrant County*

Fort Worth, *Elizabeth Boulevard Historic District*, 1001–1616 Elizabeth Blvd.

*Washington County*

Burton vicinity, *Gantt-Jones House*, 1.5 mi. NW of Burton off SR 1697.

**UTAH**

*Carbon County*

Spring Glen, *Stowell-Topolovec House*, Main St.

*Emery County*

Castle Dale, *Seeley, Justis Wellington, II, House*, Center and 100 South Sts.

*Utah County*

Provo, *Bebbe, George and Martha, House*, 489 W. 100 South
Provo, *Provo Downtown Historic District*, Center St. and University Ave.

**VERMONT**

*Windsor County*

Ludlow, *Ludlow Graded School*, High St.

**WISCONSIN**

*Jefferson County*

Watertown, *St. Paul's Episcopal Church*, 413 S. 2nd St.

[FR Doc. 79-29281 Filed 9-24-79; 8:45 am]

BILLING CODE 4310-03-M

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## National Park Service
## Fish and Wildlife Service

### Availability of Environmental Assessment for Cape Hatteras Electric Transmission Line, Dare and Hyde Counties, N.C.

An Environmental Assessment considering the direct and indirect impacts on the human environment of alternatives for construction of a 115 kV overhead power line from the north side of Oregon Inlet to Buxton as proposed by the Cape Hatteras Electric Membership Corporation is available for public review and comment. The assessment considers the resources of Cape Hatteras National Seashore and Pea Island National Wildlife Refuge as well as the effects on the communities involved. It is available for inspection at the Southeast Regional Office of the National Park Service, 75 Spring Street, SW., Atlanta, Georgia 30303; Southeast Regional Office of the Fish and Wildlife Service, 75 Spring Street, SW., Atlanta, Georgia 30303; Area Office, Fish and Wildlife Service, Federal Building, Room 279, Asheville, North Carolina 28801; Pea Island National Wildlife Refuge, P.O. Box 1026, Manteo, North Carolina 27954; and Cape Hatteras National Seashore, Route 1, Box 675, Manteo, North Carolina 27954. Limited copies are available for public distribution.

In addition to the alternatives and their environmental impacts, the assessment considers the mitigating measures to soften the effects of each alternative on the human environment.

Public comments on the assessment and its alternatives are solicited. Written comments will be received at the Southeast Regional Office, National Park Service, and Cape Hatteras National Seashore at the addresses listed above on or before October 25, 1979.

Dated: September 7, 1979.

**Ray R. Vaughn,**

*Acting Regional Director, Fish and Wildlife Service, Southeast Region.*

Dated: September 7, 1979.

**Joe Brown,**

*Regional Director, National Park Service Southeast Region.*

[FR Doc. 79-29696 Filed 9-24-79; 8:45 am]

BILLING CODE 4310-70-M

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## National Park Service

### Voyageurs National Park; Intention To Extend Concession Permit

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice (October 25, 1979), the Department of the Interior, through the Director of the National Park Service, proposes to extend concession permit with Kettle Falls Hotel, Inc., authorizing it to continue to provide lodging and food facilities and services for the public at Voyageurs National Park for a period of two (2) years from January 1, 1980 through December 31, 1981.

It has been determined that the proposed extension of this permit does not have potential for causing significant environmental impact and therefore preparation of an environmental assessment is not required.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1979, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. This provision, in effect, grants Kettle Falls Hotel, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the permit, if, thereafter, the proposal of Kettle Falls Hotel, Inc., is substantially equal to others received. In the event, a responsive proposal superior to that of Kettle Falls Hotel, Inc., (as determined by the Secretary) is submitted, Kettle Falls Hotel, Inc., will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new permit will be negotiated with Kettle Falls Hotel, Inc. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be post marked or hand delivered on or before October 25, 1979, to be considered and evaluated.

Interested parties should contact the Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, for information as to the requirements of the proposed contract.

Dated: September 19, 1979.

**F. R. Holland, Jr.**

*Acting Associate Director, National Park Service.*

[FR Doc. 79-29697 Filed 9-24-79; 8:45 am]

BILLING CODE 4310-70-M

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Job Corps; Proposed Center at the Daniel Payne College, Birmingham, Ala.; Determination of Negative Environmental Impact

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice-Finding of Negative Environmental Impact.

**SUMMARY:** The purpose of this notice is to announce a determination by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at the Daniel Payne College site does not constitute a major Federal action which will significantly affect the environment.

**FOR FURTHER INFORMATION:** Contact Raymond E. Young, Director, Office of Job Corps and Young Adult Conservation Corps, Room 6100, Patrick Henry building, 601 D Street, N.W., Washington, D.C. 20213, Telephone (202) 376-6995.

**SUPPLEMENTARY INFORMATION:** Title IV B of the Comprehensive Employment and Training Act (CETA), as amended, Pub. L. 95-524, 29 U.S.C. 923 *et seq.*, directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. Regulations pertaining to the Job Corps program are published at 29 CFR Part 97a. Pursuant to his authority, the Secretary is planning to establish a Job Corps center at the Daniel Payne College location provided an agreement can be reached on acquisition of the facilities.

Pursuant to 40 CFR 1500, the Department of Labor conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR 1500.6(c). The proposed Daniel Payne Job Corps Center will be a training center with residential, nonresidential and educational facilities for approximately 200 disadvantaged youth, men and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 67 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for residential living and education.

The center will be a self-contained facility located on the campus of Daniel Payne College, Birmingham, Alabama. The site surveyed for use by Job Corps consists of 4 buildings located on approximately 200 acres.

Water service is provided by the City of Birmingham Water Board. Sanitary sewer service is provided by either Five Mile or Village Creek Sanitary Districts. Natural gas is available on the site. Electricity is provided by the Alabama Power Company.

With regard to fire protection, provisions will have to be made for the addition of fire hydrants. New construction will be required to accommodate both the "Building Trade" vocational clusters and storage support.

The proposed Job Corps center will be operated in compliance with the Job Corps Environmental Standards published at 29 CFR 97a.116, and with applicable Federal, State and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, with Executive Order 11752, and with regulations and guidelines of the United States Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11572.

My determination is that the establishment and operation of the center will have no adverse impact upon traffic, transportation systems, pedestrian or vehicular congestion, police protection services, fire protection services, public safety, legal services, or upon the aesthetics or residential quality of the nearby area. I further determine that the establishment and operation of the center will have no adverse effects upon ecological systems, population distribution, air or water pollution, municipal services, or health or life support systems. Accordingly, I hereby determine that the establishment of such Job Corps center will not have a significant adverse impact upon the quality of the human environment of the nearby area, or the greater Birmingham community.

The Job Corps center will be operated with the pass-leave procedures required by Job Corps regulations and operational procedures. I find that in light of the enrollment level and utilization of the pass-leave procedures, that congestion in the area will not increase.

There will be no material impact upon transportation or traffic within the area.

It is further determined that the establishment and operation of the center is not likely to have a significant adverse impact upon use of police services or the public safety. Adequate provisions are planned to carefully screen prospective enrollees so as to

minimize the possibility of disciplinary problems, or center related public safety problems.

Adequate staffing personnel and protection will be provided at the Daniel Payne Job Corps Center, Birmingham, Alabama, in accordance with Job Corps' operating procedures and regulations.

I further find that fire protection services in the area will not be adversely affected and that systems in the facilities will be upgraded to further reduce risk of fire from the present risk level. Additionally, local health services will not be adversely affected because basic dental, medical, and other health related services will be provided on site with Job Corps' own facilities and personnel.

In conclusion, it is my determination, after careful review and consideration of the nature of Job Corps' proposed action, in light of the Job Corps' purposes, objectives and operational procedures, that the impact upon the surrounding community, of the establishment of the center at the site will not be significant. It is my careful determination that the environmental assessment conducted by the Department of Labor, pursuant to 40 CFR Part 1500, clearly indicates that preparation of an environmental impact statement is not required since the establishment of the Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR 1500.6(c).

Signed at Washington, D.C. this 19th day of July 1979.

**Raymond E. Young,**

*Director, Office of Job Corps and Young Adult Conservation Corps.*

[FR Doc. 79-29744 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-30-M

## Job Corps; Proposed Center at the Tuskegee Institute, Tuskegee Institute, Ala.; Determination of Negative Environmental Impact

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice—Finding of Negative Environmental Impact.

**SUMMARY:** The purpose of this notice is to announce a determination by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at the Tuskegee Institute site does not constitute a major Federal action which will significantly affect the environment.

**FOR FURTHER INFORMATION:** Contact E. Hunter Smith, Jr., Acting Director, Office of Job Corps and Young Adult Conservation Corps, Room 6100, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, Telephone (202) 376-6995.

**SUPPLEMENTARY INFORMATION:** Title IV B of the Comprehensive Employment and Training Act (CETA), as amended, Pub. L. 95-524, 29 U.S.C. 923 *et seq.*, directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. Regulations pertaining to the Job Corps program are published at 29 CFR Part 97a. Pursuant to his authority, the Secretary is planning to establish a Job Corps center at the Tuskegee Institute location provided an agreement can be reached on acquisition of the facilities.

Pursuant to 40 CFR 1500, the Department of Labor conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR 1500.6(c). The proposed Tuskegee Institute Job Corps Center will be a training center with residential, nonresidential and educational facilities for approximately 250 disadvantaged youth, men and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 83 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for residential living and education.

The center will be a self-contained facility located on the campus of Tuskegee Institute, Tuskegee Institute, Alabama. The site surveyed for use by Job Corps consists of 9 buildings located in all areas of the campus which comprises 236 acres.

Water, sewer services, natural gas and fire protection are provided by the City of Tuskegee. With regard to fire protection, there are several fire hydrants on the site. No new construction is required.

The proposed Job Corps center will be operated in compliance with the Job Corps Environmental Standards published at 29 CFR 97a.116, and with applicable Federal, State and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, with Executive Order 11752, and with regulations and guidelines of the United States Environmental Protection Agency.

The center installation will be operated and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11572.

My determination is that the establishment and operation of the center will have no adverse impact upon traffic, transportation systems, pedestrian or vehicular congestion, police protection services, fire protection services, public safety, legal services, or upon the aesthetics or residential quality of the nearby area. I further determine that the establishment and operation of the center will have no adverse effects upon ecological systems, population distribution, air or water pollution, municipal services, or health or life support systems. Accordingly, I hereby determine that the establishment of such Job Corps center will not have a significant adverse impact upon the quality of the human environment of the nearby area, or the greater Tuskegee Institute community.

The Job Corps center will be operated with the pass-leave procedures required by Job Corps regulations and operational procedures. I find that in light of the enrollment level and utilization of the pass-leave procedures, that congestion in the area will not increase.

There will be no material impact upon transportation or traffic within the area.

It is further determined that the establishment and operation of the center is not likely to have a significant adverse impact upon use of police services or the public safety. Adequate provisions are planned to carefully screen prospective enrollees so as to minimize the possibility of disciplinary problems, or center related public safety problems.

Adequate staffing personnel and protection will be provided at the Tuskegee Institute, Tuskegee Institute, Alabama Job Corps Center in accordance with Job Corps' operating procedures and regulations.

I further find that fire protection services in the area will not be adversely affected and that systems in the facilities will be upgraded to further reduce risk of fire from the present risk level.

Additionally, local health services will not be adversely affected because basic dental, medical and other health related services will be provided on site with Job Corps' own facilities and personnel.

In conclusion, it is my determination, after careful review and consideration of the nature of Job Corps' proposed action, in light of Job Corps' purposes, objectives and operational procedures, that the impact upon the surrounding community, of the establishment of the center at the site will not be significant. It is my careful determination that the environmental assessment conducted by the Department of Labor, pursuant to 40 CFR Part 1500, clearly indictes that preparation of an environmental impact statement is not required since the establishment of the Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR 1500.6(c).

Signed at Washington, D.C. this 19th day of July 1979.

**Raymond E. Young,**

*Director, Office of the Job Corps and Young Adult Conservation Corps.*

[FR Doc. 79-29743 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-30-M

## Job Corps; Proposed Center at the Red Carpet Inn, Little Rock, Ark.; Determination of Negative Environmental Impact

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice-Finding of Negative Environmental Impact.

**SUMMARY:** The purpose of this notice is to announce a determination by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at the Red Carpet Inn site does not constitute a major Federal action which will significantly affect the environment.

**FOR FURTHER INFORMATION:** Contact E. Hunter Smith, Jr., Acting Director, Office of Job Corps and Young Adult Conservation Corps, Room 6100, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, Telephone (202) 376-6995.

**SUPPLEMENTARY INFORMATION:** Title IV B of the Comprehensive Employment and Training Act (CETA), as amended, Pub. L. 95-524, 29 U.S.C. 923 *et seq.*, directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. Regulations pertaining to the Job Corps program are published at 29 CFR Part 97a. Pursuant to his authority, the Secretary is planning to establish a Job Corps center at the former Red Carpet Inn location provided an agreement can be reached on acquisition of the facilities.

Pursuant to 40 CFR 1500, the Department of Labor conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR 1500.6(c). The proposed Little Rock, Arkansas Job Corps Center will be a training center with residential, nonresidential and educational facilities for approximately 200 disadvantaged youth, men and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 67 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for residential living and education.

The center will be a self-contained facility located at East 21st Street, Little Rock, Arkansas. The site surveyed for use by Job Corps consists of 2 buildings covering 2.43 acres of land.

Water, sewer services and natural gas are provided by the City of Little Rock. With regard to fire protection, there are three fire hydrants located in the same block on two of the adjacent streets. The sanitary and storm sewer service is provided by the City of Little Rock. Natural gas is provided by Arkansas Louisiana Gas Company. Electricity is provided by the Arkansas Power and Light Company.

The proposed Job Corps center will be operated in compliance with the Job Corps Environmental Standards published at 29 CFR 97a.116, and with applicable Federal, State and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, with Executive Order 11752, and with regulations and guidelines of the United States Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752.

My determination is that the establishment and operation of the center will have no adverse impact upon traffic, transportation systems, pedestrian or vehicular congestion, police protection services, fire protection services, public safety, legal services, or upon the aesthetics or residential quality of the nearby area. I further determine that the establishment and operation of the center will have no adverse effects upon ecological systems, population distribution, air or water pollution, municipal services, or health or life support systems. Accordingly, I hereby determine that the establishment of such Job Corps center will not have a significant adverse impact upon the quality of the human environment of the nearby area, or the greater Little Rock community.

The Job Corps center will be operated with the pass-leave procedures required by Job Corps regulations and operational procedures. I find that in light of the enrollment level and utilization of the pass-leave procedures, that congestion in the area will not increase.

There will be no material impact upon transportation or traffic within the area.

It is further determined that the establishment and operation of the center is not likely to have a significant adverse impact upon use of police services or the public safety. Adequate provisions are planned to carefully screen prospective enrollees so as to minimize the possibility of disciplinary problems, or center related public safety problems.

Adequate staffing personnel and protection will be provided at the Little Rock Arkansas Job Corps Center in accordance with Job Corps' operating procedures and regulations.

I further find that fire protection services in the area will not be adversely affected and that systems in the facilities will be upgraded to further reduce risk of fire from the present risk level.

Additionally, local health services will not be adversely affected because basic dental, medical and other health related services will be provided on site with Job Corps' own facilities and personnel.

In conclusion, it is my determination, after careful review and consideration of the nature of Job Corps' proposed action, in light of Job Corps' purposes, objectives and operational procedures, that the impact upon the surrounding community, of the establishment of the center at the site will not be significant.

It is my careful determination that the environmental assessment conducted by the Department of Labor, pursuant to 40 CFR Part 1500, clearly indicates that preparation of an environmental impact statement is not required since the establishment of the Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR 1500.6(c).

Signed at Washington, D.C. this 19th day of July 1979.

**Raymond E. Young,**

*Director, Office of Job Corps and Young Adult Conservation Corps.*

[FR Doc. 79-29745 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-30-M

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## Mine Safety and Health Administration

**[Docket No. M-79-126-C]**

### B.G.P.T. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

B.G.P.T. Coal Company, 836 W. Spruce Street, Shamokin, Pennsylvania has filed a petition to modify the application of 30 CFR 75.301 (ventilation) to its No. 7 Slope Mine located in Shamokin, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

(1) Air sample analysis reveals that harmful quantities of methane are nonexistent in the petitioner's mine.

(2) There is no history of ignition, explosion or fire in the mine.

(3) There is no history of harmful quantities of carbon dioxide and other noxious or harmful gases in the mine.

(4) Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

(5) Extremely high velocities of air in small cross-sectional areas or airways and manways in friable anthracite veins present a hazard of dangerous flying objects.

(6) High velocities and large quantities of air cause extremely uncomfortable damp and cold conditions in the already uncomfortable wet mine.

(7) Difficulty in keeping miners on the job and securing additional mine help is due primarily to these conditions.

(8) For these reasons, the petitioner requests that for its mine the minimum quantity of air reaching each working face be 1,500 cubic feet a minute, that the minimum quantity of air reaching the last crosscut in any pair of developing entries be 5,000 cubic feet a minute, and that the minimum quantity of air reaching the intake end of the pillar line be 5,000 cubic feet a minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

(9) The petition states 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 25, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Room 627, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: September 14, 1979.

**Robert B. Lagather,**

*Assistant Secretary for Mine Safety and Health.*

[FR Doc. 79-29748 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-43-M

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**[Docket No. M-79-127-C]**

### H & H Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

H & H Coal Company, R. D. 2, Box 2632, Pottsville, Pennsylvania 17901 has filed a petition to modify the application of 30 CFR 75.301 (ventilation) to its H & H Slope Mine located in Columbia County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

(1) Air sample analysis reveals that harmful quantities of methane are nonexistent in the petitioner's mine.

(2) There is no history of ignition, explosion or fire in the mine.

(3)The is no history of harmful quantities of carbon dioxide and other noxious or harmful gases in the mine.

(4) Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

(5) Extremely high velocities of air in small cross-sectional areas or airways and manways in friable anthracite veins present a hazard of dangerous flying objects.

(6) High velocities and large quantities of air cause extremely uncomfortable damp and cold conditions in the already uncomfortable wet mine.

(7) Difficulty in keeping miners on the job and securing additional mine help is due primarily to these conditions.

(8) For these reasons, the petitioner requests that for its mine the minimum quantity of air reaching each working face be 1,500 cubic feet a minute, that the minimum quantity or air reaching the last crosscut in any pair of developing entries be 5,000 cubic feet a minute, and that the minimum quantity of air reaching the intake end of the pillar line be 5,000 cubic feet a minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

(9) The petition states 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 25, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Room 627, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: September 14, 1979.

**Robert B. Lagather,**

*Assistant Secretary for Mine Safety and Health.*

[FR Doc. 79-29749 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-43-M

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**[Docket No. M-79-130-C]**

### J & M Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

J & M Coal Corporation, Drawer 400, Big Stone Gap, Virginia 24273 has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its No. 1 Mine located in Scott County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

1. The petition concerns the installation of cabs or canopies on electric face equipment in the petitioner's mine.

2. The petitioner is mining a coal seam which varies from 36 to 54 inches in height. Headers for roof control limit clearance an additional 2 to 3 inches.

3. The mine has an irregular floor pitched at 12 feet of fall per 100 feet of run. The floor is slippery when the mine is sweating or water is encountered.

4. Under these conditions, cabs or canopies could catch a header or the roof, resulting in possible serious injury to the equipment operator.

5. For this reason, the petitioner requests relief from the application of the standard to its mine.

**Request for Comments**

Persons interested in this petition may furnish written comments on or before October 25, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Room 627, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: September 19, 1979.

**Robert B. Lagather,**

*Assistant Secretary for Mine Safety and Health.*

[FR Doc. 79-29750 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-43-M

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**[Docket No. M-79-100-C]**

## Robinson Fork Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Robinson Fork Coal Company, Route 2, Box 186, Vansant, Virginia 24656 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 1 Mine located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

1. The petition concerns the illumination of underground working places in which self-propelled mining equipment is operated.

2. The petitioner is mining a coal seam ranging from 25 to 30 inches in height.

3. In the close quarters of the petitioner's mine, required lighting on the petitioner's scoops, cutting machine, and bolting machine would result in blinding glare, causing a diminution of safety to the miners involved.

4. In addition, the low seam heights make it impossible for the petitioner to maintain such lighting on its equipment.

5. For these reasons, the petitioner requests relief from the application of the standard to its mine.

**Request for Comments**

Persons interested in this petition may furnish written comments on or before October 25, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Room 627, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: September 19, 1979.

**Robert B. Lagather,**

*Assistant Secretary for Mine Safety and Health.*

[FR Doc. 79-29751 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-43-M

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## Office of the Secretary

## Senior Executive Service; Appointment of Members to the Performance Review Board

Title IV of the Civil Service Reform Act (Sec. 405(a), Title IV, Pub. L. 95-454; 5 USC 4314(c)(4)) provides for salary supplements called performance awards to encourage excellence in performance by career appointees to the Senior Executive Service. Such awards must be based on recommendations of the Performance Review Board, whose members review performance appraisals based on achievement of results.

Accordingly, the following employees are hereby appointed as members of the Performance Review Board of the Senior Executive Service for the term indicated:

Alfred G. Albert, 3 year term.
William B. Hewitt, 3 year term.
Paul H. Jensen, 2 year term.
Janet L. Norwood, 2 year term.
Charles E. Pugh, 1 year term.
Gilbert J. Saulter, 3 year term.
Alfred M. Zuck, Chairperson, 1 year term.

The normal term of office for members will be on a January 1-December 31 basis. The first year of SES operation, however, the term of each member will commence formally on the date of publication of this notice, rather than on January 1, 1980, so that the Board may begin operation. Thus, the term of persons appointed for one year shall expire on December 31, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Frank A. Yeager, Director of Personnel Management, Room N5456 NDOL Building, 200 Constitution Ave, NW., Washington, D.C. 20210, telephone 202-523-9191.

Signed at Washington, D.C. this 14th day of September, 1979.

**Ray Marshall,**

*Secretary of Labor.*

[FR Doc. 79-29712 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-23-M

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## 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 wil 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 October 5, 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 October 5, 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 17th day of September 1979.

**Harold A. Bratt,**

*Acting Director, Office of Trade Adjustment Assistance.*

Appendix

| Petitioner: Union/workers or former workers of: | Location | Date received | Date of petition | Petition No. | Articles produced |
|---|---|---|---|---|---|
| ABC Knitwear Corp., Inc. (workers) | Brooklyn, N.Y. | 9/11/79 | 9/8/79 | TA-W-6,022 | Ladies' sportswear. |
| ACCO Industries, Inc., Page Fence Division (USWA). | Monessen, Pa | 9/11/79 | 9/6/79 | TA-W-6,023 | Barbed wire, chain link fence, plastic coated chain link fence, and aluminum coated wire. |
| Anchor Motor Freignt, Inc. (workers) | Warren, Ohio | 9/11/79 | 8/24/79 | TA-W-6,024 | Trucking transportation of new cars. |
| Crane Company, Chattanooga Valve Plant (USWA). | Chattanooga, Tenn | 9/11/79 | 9/1/79 | TA-W-6,025 | Steel valves. |
| Florsheim Shoe Company (ACTWU Shoe Division). | Chaffee, Mo. | 9/11/79 | 9/6/79 | TA-W-6,026 | Men's shoes and boots. |
| Lebanon Steel Foundry (USWA) | Lebanon, Pa | 9/11/79 | 9/6/79 | TA-W-6,027 | Casting for valves, pumps, fittings, and impellors. |
| M & G Sportswear Company, Inc. (Workers) | Fall River, Mass | 9/11/79 | 9/5/79 | TA-W-6,028 | Boy's outerwear and girl's jackets. |
| Mode Art Jewelers Company, Inc. (workers) | New York, N.Y. | 9/11/79 | 8/31/79 | TA-W-6,029 | Costume jewlery. |
| Reynoldsville Industries, Inc. (ACTWU) | Reynoldsville, Pa | 9/11/79 | 9/4/79 | TA-W-6,030 | Boy's knit shirts. |
| Stanley Sweater Mill, Inc. (workers) | Richmond Hill, N.Y. | 9/12/79 | 8/29/79 | TA-W-6,031 | Knitgoods (sweaters of men and women). |
| Valmont, Inc. (ILGWU) | Ludlow, Mass | 9/12/79 | 9/6/79 | TA-W-6,032 | Brassieres. |
| Willna Knitwear, Inc. (ILGWU) | North Bergen, N.J. | 8/15/79 | 8/8/79 | TA-W-6,033 | Ladies' sportswear. |
| Wilshire Fashions, Inc. (workers) | South River, N.J. | 9/12/79 | 9/5/79 | TA-W-6,034 | Ladies' outerwear (coats and jackets). |

[FR Doc. 79-29715 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5631]

## Aileen, Inc., Victoria Sewing Plant Victoria, Va.; 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 June 22, 1979, in response to a worker petition received on June 7, 1979, which was filed on behalf of workers and former workers producing women's and girl's sportswear at the Victoria, Virginia plant of Aileen, Incorporated. The investigation revealed that the plant produces primarily women's and misses' blouses. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's blouses and shirts increased in 1978 compared to 1977.

The Department conducted a survey of the customers of Aileen, Incorporated. The survey revealed that customers increased purchases of imported women's and misses' blouses while decreasing purchases from the subject firm in 1978 compared to 1977 and in the first half of 1979 compared to the same period of 1978.

### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's and misses' blouses produced at the Victoria, Virginia plant of Aileen, 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 the Victoria Sewing Plant of Aileen, Incorporated, Victoria, Virginia who became totally or partially separated from employment on or after May 14, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of September 1979.

**Harry J. Gilman,**

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 79-29716 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5759]

## Aileen, Inc., New Market, Va.; 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 eligiblity requirements of Section 222 of the Act must be met.

The investigation was initiated on July 20, 1979 in response to a worker petition received on July 12, 1979 which was filed on behalf of workers and former workers producing women's and children's sportswear at the New Market, Virginia plant of Aileen, Incorporated. The investigation revealed that the plant produces primarily women's and misses' blouses. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's blouses and shirts increased from 1977 to 1978.

A survey by the Department indicated that customers of Aileen increased imports of women's and misses' blouses and decreased purchases from the subject firm in 1978 compared with 1977 and in the first half of 1979 compared with the like period of 1978.

### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the women's and misses' blouses produced at the New Market, Virginia plant of Aileen, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the New Market, Virginia plant of Aileen, Incorporated became totally or partially separated from employment on or after July 2, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of September 1979.

**Harry J. Gilman,**

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 79-29717 Filed 9-24-79; 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 adjustent 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 October 5, 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 October 5, 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 NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th 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 |
|---|---|---|---|---|---|
| Barnes Worsteds, Inc. (workers) | Kingston, Mass | 9/17/79 | 9/10/79 | TA-W-6,035 | Worsted fabrics. |
| Cochise Mining Corporation (workers) | Safford, Ariz | 9/17/79 | 8/27/79 | TA-W-6,036 | Copper concentrate. |
| Chrysler Corp., Newark Assembly Plant (UAW). | Newark, Del | 9/14/79 | 8/28/79 | TA-W-6,037 | Volare and Aspen. |
| Chrysler Corp., Lynch Road Assembly Plant (UAW). | Detroit, Mich | 9/14/79 | 8/28/79 | TA-W-6,038 | New Yorker, Newport, St. Regis, and Gran Fury. |
| Chrysler Corp., Indianapolis Electrical Plant (UAW). | Indianapolis, Ind | 9/14/79 | 8/28/79 | TA-W-6,039 | Electrical parts. |
| Chrysler Corp., Sterling Stamping Plant (UAW). | Sterling Heights, Mich | 9/14/79 | 8/28/79 | TA-W-6,040 | Sheet metal stampings. |
| Cowden Manufacturing Company (workers) | Lancaster, Ky | 9/10/79 | 9/2/79 | TA-W-6,041 | Men's bib overalls and work clothing, also women's clothes. |
| Island Creek Coal Co., Va. Pocahontas #2 (UMWA). | Oakwood, Va | 9/17/79 | 8/30/79 | TA-W-6,042 | Metallurgical coal. |
| Lamson & Sessions Co., Kent Division (Allied Industrial Workers of America). | Kent, Ohio | 9/17/79 | 9/10/79 | TA-W-6,043 | Nuts. |
| Luray Textile (workers) | Luray, Va | 9/17/79 | 9/11/79 | TA-W-6,044 | Textured raw yarn. |
| U.S. Steel Corp., Tubing Specialties (USWA) | Gary, Ind | 9/17/79 | 9/7/79 | TA-W-6,045 | Seamless steel tubular products. |
| Xenko, Inc., Xenko #2 Deep Mine (UMWA) | Fayette County, W. Va | 9/12/79 | 9/7/79 | TA-W-6,046 | Leased the coal—pay royalty per ton to Dry Hill Coal Co. |

[FR Doc. 79-29718 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

**[TA-W-5776 and TA-W-5777]**

## Betex Sales Corp., Brewster Finishing Co., Inc., Paterson, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (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 investigations were initiated on July 26, 1979 in response to worker petitions received on July 25, 1979 which were filed on behalf of workers and former workers producing screen printed cloth at the Paterson, New Jersey plant of Betex (TA-W-5776) and dyed and roller printed cloth at the Paterson, New Jersey plant of Brewster Finishing Company (TA-W-5777). The investigation revealed that the workers at Brewster Finishing Company produce primarily dyed, flocked, or rolled printed cloth. The investigation also revealed that the correct names of the firms are Betex Sales Corporation (TA-W-5776) and Brewster Finishing Company, Incorporated (TA-W-5777). In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or

threat thereof, and to the absolute decline in sales or production.

Imports of finished fabric (bleached, dyed, and printed) were less than 2.0 percent of U.S. production and consumption in the period 1974 through 1978. In the first seven three months of 1979, imports decreased absolutely compared to the first three months of 1978.

Sales of printed fabric at Brewster Finishing Company increased from 1977 to 1978 and remained stable in the first seven months of 1979 compared to the first seven months of 1978. Production of printed fabric at Brewster Finishing Company increased in 1978 compared to 1977 and in the first seven months of 1979 compared to the first seven months of 1978. Sales and production of printed fabric at Betex Sales Corporation increased in 1978 compared to 1977 and decreased in the first seven months of 1979 compared to the first months of 1978.

Brewster Finishing Company dyes and finishes fabric that is screen printed at Betex as well as dyeing and finishing fabric that is flocked or roller printed at Brewster. Declines in employment at Brewster were related to the reduction in Betex's demand for dyed fabric from Brewster. This reduction was the result of a decline in orders for the screen printed fabric produced at Betex Sales Corporation.

the Department conducted a survey of customers of Betex Sales Corporation. This survey revealed that one customer purchased imports of printed fabric. This customer's purchases of imports remained stable in the first seven months of 1979 compared to 1978. During that same period, this customer decreased purchases from Betex and substantially increased purchases from other domestic sources.

### Conclusion

After careful review, I determine that all workers of Betex Sales Corporation, Paterson, New Jersey (TA-W-5776) and Brewster Finishing Company, Incorporated, Paterson, New Jersey (TA-W-5777) 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 18th day of September 1979.

C. Michael Aho,

*Director, Office of Foreign Economic Research.*

[FR Doc. 79-29719 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5784]

## Budd Co., Gary, Ind.; Negative Determination Regarding Eligiblity 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 eligiblity 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 30, 1979 in response to a worker petition received on July 25, 1979 which was filed by the United Automobile Workers on behalf of workers and former workers producing component parts for automobiles at the Gary, Indiana plant of Budd Company. The investigation revealed that the plant produces original equipment automotive body stampings. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision, have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of automotive body stamping are negligible. Customers of Budd Company's Gary plant indicated that they do not import original equipment body stampings.

Petitioners allege that increased imports of automobiles have caused the decrease in production and employment at Budd Company's Gary plant. Although imported automobiles incorporate body stampings of the same origin, imports of the whole product are not "like or directly competitive" with their component parts.

Imports of automotive body stampings must be considered in determining import injury to workers producing automotive body stampings at Budd Company's Gary, Indiana plant.

### Conclusion

After careful review, I determine that all workers of the Gary, Indiana plant of Budd Company 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 17th day of September 1979.

Harry J. Gilman,

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 79-29720 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5802]

## Catoosa Knitting Mills, Inc., Crossville, Tenn.; 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 31, 1979 in response to a worker petition received on July 30, 1979 which was filed on behalf of workers and former workers producing men's, boy's, ladies' and girls' sweaters and sweater shirts at Catoosa Knitting Mills, Incorporated, Crossville, Tennessee. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased relative to domestic production from 1977 to 1978. The ratio of imports of sweaters to domestic production was 115 percent or greater in 1976, 1977 and 1978.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased both absolutely and relative to domestic production from 1976 to 1977 and from 1977 to 1978.

U.S. imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased on an absolute basis in each year from 1976 through 1978.

A Department of Labor investigation revealed that Catoosa Knitting Mills, Incorporated produced men's and boys' sweaters and sweater shirts and ladies' and girls' sweaters on a contract basis. A Departmental survey was conducted with the manufacturers from whom Catoosa receives contract work. The survey revealed that manufacturers representing a substantial portion of Catoosa's sales reduced contracts with Catoosa from 1977 to 1978 and increased contracts with foregin sources. The survey results also showed that another manufacturer reduced contract work with Catoosa from 1977 to 1978 and in the first half of 1979 compared to the

same period in 1978. The Departmental investigation revealed that customers of this manufacturer have increased purchases of imported girls' and children's sportswear. In addition, the survey revealed that several other manufacturers have relied on imported sweaters and sweater shirts for a greater proportion of their total sales in the first six months of 1979 when 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 sweaters and sweater shirts and ladies' and girls' sweaters produced at Catoosa Knitting Mills, Incorporated, Crossville, Tennessee 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 Catoosa Knitting Mills, Incorporated, Crossville, Tennessee who became totally or partially separated from employment on or after July 24, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 19th day of September 1979.

**James F. Taylor,**

*Director, Office of Management, Administration and Planning.*

[FR Doc. 79-29721 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-5751]

## Celotex Corp., Vestal Manufacturing Division, Sweetwater, Tenn.; 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 17, 1979 in response to a worker petition received on July 12, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel and cast iron products at the Celotex Corporation, Vestal Manufacturing Division, Sweetwater, Tennessee. It is concluded that all of the requirements have been met.

U.S. imports of iron castings increased absolutely and relatively in 1978 compared to 1977 and in the first six months of 1979 compared to the same period of 1978.

U.S. imports of fabricated structural steel increased absolutely and relatively in 1978 compared to 1977 and in the first three months of 1979 compared to the same period of 1978.

The Department conducted a survey of customers purchasing cast iron and fabricated steel fireplaces, fireplace parts and accessories, and construction products from the Vestal Manufacturing Division of the Celotex Corporation in 1977, 1978 and 1979. Some of the customers responding to the survey decreased purchases from the subject firm and increased purchases of imported products during January–July 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 steel and cast iron products produced at the Celotex Corporation, Vestal Manufacturing Division, Sweetwater, Tennessee 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 Celotex Corporation, Vestal Manufacturing Division, Sweetwater, Tennessee who became totally or partially separated from employment on or after April 1, 1979 are eligibe to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of September 1979.

**C. Michael Aho,**

*Director, Office of Foreign Economic Research.*

[FR Doc. 79-29722 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-5813]

## Crompton and Knowles Corp., Worcester, Mass.; 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 August 3, 1979 in response to a worker petition received on July 30, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing automotive parts at the Worcester, Massachusetts plant of Crompton and Knowles Corporation. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of the automotive parts produced at the Worcester, Massachusetts plant of Crompton and Knowles Corporation are negligible. A Department survey revealed that Crompton and Knowles' only customer for axles and steering arms does not import any of those automotive parts.

**Conclusion**

After careful review, I determine that all workers of the Worcester, Massachusetts plant of Crompton and Knowles Corporation engaged in employment related to the production of automotive parts 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 18th day of September 1979.

**C. Michael Aho,**

*Director, Office of Foreign Economic Research.*

[FR Doc. 79-29723 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-5752]

## Dacor, Inc., Worcester, Mass.; 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 12, 1979 which was filed on behalf of workers and former workers producing simulated brick and stone facings at Dacor, Incorporated, Worcester, Massachusetts. 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 U.S. imports of simulated brick and stone facings are negligible.

A Department survey of manufacturers and purchasers of simulated brick and stone facings revealed that U.S. imports of such products are negligible. Customers surveyed who decreased purchases from Dacor, Incorporated in 1978 and the first four months of 1979 relied solely upon other domestic suppliers to meet their requirements.

**Conclusion**

After careful review, I determine that all workers of Dacor, Incorporated, Worcester, Massachusetts are denied eligibility to apply for adjustment assistance under title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of September 1979.

**Harry J. Gilman,**

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 79-29724 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-5763]

## General Instrument Corp., Chicago Miniature Lampworks Division, Neptune, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 20, 1979 in response to a worker petition received on March 19, 1979 which was filed on behalf of workers and former workers producing lampholders for miniature lights at Chicago Miniature Lampworks, Division of General Instrument Corporation, Neptune, 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.

Chicago Miniature Lampworks, a Division of General Instrument Corporation originated in Chicago, Illinois. In May 1977 the lighted device production was moved to a General Instrument facility in Neptune, New Jersey. While the move took place, production of lighted devices declined resulting in a backlog of orders. High production and employment levels in 1978 were a result of an attempt by the firm to fill this backlog of orders. After the company completed the backlog, production and employment levels stabilized at current levels.

**Conclusion**

After careful review, I determine that all workers of Chicago Miniature Lampworks, Division of General Instrument Corporation, Neptune, 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 19th day of September 1979.

**Harry J. Gilman,**

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 79-29725 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-5754]

## Girltown Corp., New York, N.Y.; 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 17, 1979 in response to a worker petition received on July 9, 1979 which was filed on behalf of workers and former workers producing children's sportswear at the New York, New York facility of Girltown Corporation. The investigation revealed that the specific items of sportswear produced by Girltown consisted of slacks, shorts, blouses, skirts, dresses, jackets and vests for children and girls. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's slacks and shorts, and coats and jackets increased both absolutely and relative to domestic production from 1976 to 1977 and from 1977 to 1978.

U.S. imports of women's, misses' and children's blouses and shirts increased in absolute terms from 1976 to 1977 and then increased both absolutely and relative to domestic production from 1977 to 1978.

U.S. imports of women's, misses' and children's skirts, dresses, and suits increased both absolutely and relative to domestic production in 1978 compared to 1977.

Girltown Corporation contracts approximately one-third of its production offshore. Girltown also imports girls' and children's sportswear, which is like and directly competitive with its own products. These imports increased in 1977 compared to 1976 and in the first quarter of 1978 when compared to the same period in 1977. In the last three quarters of 1978, Girltown's imports of girls' and children's sportswear remained high relative to domestic production.

The New York City facility of Girltown provided support functions for the Boston, Massachusetts manufacturing plant of Girltown Corporation. The New York City facility handled the designing and sales for the Boston plant; thus the workers employed by Girltown in New York City were involved in the integrated production process of girls' and children's sportswear for Girltown Corporation. The Department of Labor previously determined that increased imports contributed importantly to the separation of workers at the Boston plant of Girltown Corporation (TA-W-2974). The certification was issued on July 21, 1978.

The Department of Labor conducted a survey of customers of Girltown Corporation. The survey results revealed that customers, representing a substantial portion of Girltown's sales, decreased purchases of girls' an

children's sportswear from Girltown in 1978 compared to 1977 and in the first four months of 1979 compared to the same period in 1978. During these time periods, these customers also increased purchases of imported girls' and children's sportswear either directly from foreign sources or indirectly from other domestic sources, which sell garments that have been manufactured abroad.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with girls' and children's sportswear produced at the New York, New York facility of Girltown Corporation 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 facility of Girltown Corporation who became totally or partially separated from employment on or after June 22, 1978 and before April 30, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers of the New York, New York facility of Girltown Corporation who became totally or partially separated from employment on or after April 30, 1979 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 19th day of September 1979.

**Harry J. Gilman,**

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 79-29726 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-576 and TA-W-5765]

## Holly Sugar Corp., Colorado Springs, Colo.; 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 20, 1979 in response to worker petitions received on July 12 and July 19, 1979 which were filed on behalf of workers and former workers analyzing sugar (TA-W-5761) and printing forms for company use (TA-W-5765) at Holly Sugar Corporation, Colorado Springs, Colorado. The investigation was expanded to include all workers of Holly Sugar Corporation at Colorado Springs, Colorado. It is concluded that all of the requirements have been met.

U.S. imports of cane and beet sugar (raw value) increased both absolutely and relative to domestic production in January-June 1979 compared to the same period in 1978.

Holly Sugar Corporation purchased imported refined sugar in December 1977 and January 1978. This imported sugar was sold to customers during the period December 1977 to February 1979.

Workers at the Tracy and Hamilton City, California beet refineries were certified eligible to apply for adjustment assistance benefits on May 20, 1979 (TA-W-5019 and TA-W-5020). Production at these plants represents a significant proportion of total production by Holly Sugar Corporation.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the refined beet sugar produced by Holly Sugar Corporation, Colorado Springs, Colorado 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 Holly Sugar Corporation, Colorado Springs, Colorado who became totally or partially separated from employment on or after July 2, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of September 1979.

**C. Michael Aho,**

*Director, Office of Foreign Economic Research.*

[FR Doc. 79-29727 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-4472]

## Huntley of York, Ltd., York, S.C.; Revised Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a Notice of Determinations Regarding Eligibility To Apply for Adjustment Assistance on February 28, 1979, applicable to all workers of Huntley of York, Ltd., York, South Carolina. The Notice of Determinations was published in the **Federal Register** on March 6, 1979, (44 FR 12294).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed its file and the Notice of Determinations. Several employees were engaged in warehousing and shipping operations for men's knit sweaters and shirts at the York, South Carolina, facility of Huntley of York, Ltd. Furthermore, information provided by company officials indicated that the warehousing operation was scheduled to be eliminated by September 15, 1979.

The intent of the certification is to cover all workers of Huntley of York, Ltd., York, South Carolina, who were affected by the decline in production of men's knit sweaters and shirts related to import competition.

The Notice of Determinations, therefore, is revised to include warehousing and shipping employees of Huntley or York, Ltd., York, South Carolina.

The revised Notice of Determinations applicable to TA-W-4472 is hereby issued as follows:

All workers of Huntley of York, Ltd., York, South Carolina, engaged in employment related to the production of men's knit sweaters and shirts who became totally or partially separated from employment on or after June 5, 1978, and all warehousing and shipping employees at the York, South Carolina, plant of Huntley of York, Ltd., who became totally or partially separated from employment on or after September 10, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that workers engaged in employment related to the production of knit fabric at Huntley of York, Ltd., York, South Carolina, are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 13th day of September 1979.

**James F. Taylor,**

*Director, Office of Management, Administration and Planning.*

[FR Doc. 79-29728 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-24-M

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[TA-W-5770]

## J. B. Lion Corp., Bridgeport, Conn.; 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 25, 1979 in response to a worker petition received on July 24, 1979 which was filed by the International Leather Goods, Plastics & Novelty Workers' Union on behalf of workers and former workers producing ladies' handbags at J. B. Lion Corporation, Bridgeport, Connecticut. It is concluded that all of the requirements have been met.

U.S. imports of handbags increased absolutely and relative to domestic production in every year from 1975 through 1978. Imports in 1978 were substantially higher than in 1977, both absolutely and relative to domestic production.

A sample of the customers of J. B. Lion Corporation were surveyed regarding their purchases of ladies' handbags. The survey indicated that customers had increased their reliance on imported handbags from 1977 to 1978 and in the first half of 1979 compared with the same period of 1978. A major customer reported that purchases from J. B. Lion decreased in the first half of 1979 compared with the same period of 1978 and purchases of imported ladies' handbags increased in the same period.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' handbags produced at J. B. Lion Corporation, Bridgeport, Connecticut contrubited importantly to the decline in sales or production and to the total or partial seapration of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of J. B. Lion Corporation, Bridgeport, Connecticut who became totally or partially separated from employment on or after December 14, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of September 1979.

**James F. Taylor,**

*Director, Office of Management, Administration and Planning.*

[FR Doc. 79-29729 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

**[TA-W-5756]**

**J. F. McElwain Co., J. Factory, Manchester, N.H.; 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 17, 1979, in response to a worker petition received on July 9, 1979, which was filed by the New Hampshire Shoe Workers Union affiliated with the United Food and Commercial Workers Union on behalf of workers and former workers producing men's casual shoes at the J. Factory of J. F. McElwain Company, Manchester, New Hampshire. The investigation revealed that the plant produces men's dress and casual shoes. It is concluded that all of the requirements have been met.

U.S. imports of men's dress and casual shoes, except athletic, increased relative to domestic production in 1978 compared to 1977.

A major customer accounting for the preponderance of sales of the subject firm decreased purchases from J. F. McElwain and increased imports of men's dress and casual shoes in 1978 compared to 1977 and in the first six months of 1979 compared to the same period of 1978.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress and casual shoes produced at the J. Factory of J. F. McElwain Company, Manchester, New Hampshire 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 J. Factory of J. F. McElwain Company, Manchester, New Hampshire who became totally or partially separated from employment on or after June 29, 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 17th day of September 1979.

**James F. Taylor,**

*Director, Office of Management, Administration and Planning.*

[FR Doc. 79-29730 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

**[TA-W-5745]**

**L. E. Smith Glass Co., Inc., Mount Pleasant, Pa.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 16, 1979 in response to a worker petition received on July 10, 1979 which were filed by the American Flint Glass Workers Union on behalf of workers and former workers producing handmade glassware at L. E. Smith Glass Company, Incorporated, Mount Pleasant, Pennsylvania. It is concluded that all of the requirements have been met.

U.S. imports of glassware increase absolutely from 1977 to 1978 and increased in the first quarter of 1979 compared to the same period of 1978.

A survey of customers of L. E. Smith Glass Company, Incorporated revealed that several major customers decreased their purchases of glassware from the subject firm and increased their purchases of imported glassware from 1977 to 1978 and in the first five months of 1979 compared to the same period of 1978.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with handmade glassware produced at L. E. Smith Glass Company, Incorporated, Mount Pleasant, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of L. E. Smith Glass Company, Incorporated, Mount Pleasant, Pennsylvania 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 18th day of September 1979.

**C. Michael Aho,**

*Director, Office of Foreign Economic Research.*

[FR Doc. 79-29731 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-5641]

### L-J Outlet Store, Gainesville, Tex.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 22, 1979, in response to a worker petition received on June 18, 1979, which was filed on behalf of workers and former workers selling women's shoes at the Linda Jo Outlet Store, Gainesville, Texas. The investigation revealed that the correct name of the store is the L-J Outlet Store.

The petitioning group of workers was certified as eligible to apply for adjustment assistance in a revised determination issued on September 7, 1979 (TA-W-5362). Since workers of the L-J Outlet Store newly separated, totally or partially, from employment on or after April 30, 1978 (impact date) and before September 7, 1981 (expiration date of revised certification) are covered by an existing determination, a new investigation would serve no purpose. Consequently the investigation has been terminated.

Signed at Washington, D.C., this 14th day of September 1979.

**Harold A. Bratt,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 79-29732 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-5727]

### Little Falls Footwear, Inc., St. Johnsville, 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 10, 1979, in response to a worker petition received on July 2, 1979, which was filed on behalf of workers and former workers producing men's, women's and children's slippers and women's casual shoes at Little Falls Footwear, Incorporated, St. Johnsville, New York. It is concluded that all of the requirements have been met.

Evidence developed in the course of the investigation revealed that U.S. imports of rubber/fabric footwear increased absolutely and relative to domestic production from 1977 to 1978 then decreased both absolutely and relatively during the first quarter of 1979 compared to the first quarter of 1978.

There are many imported casual shoes which are categorized as rubber/fabric footwear that are directly competitive with domestically produced slippers. According to U.S. Customs officials, imports of these casual shoes increased in 1978 and have continued to increase in 1979.

A survey of customers of Little Falls Footwear revealed that several customers reduced purchases of slippers and casual shoes from Little Falls during 1978 compared to 1977 and during the first half of 1979 compared to the first half of 1978 while increasing purchases of imported slippers and casual shoes.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with slippers and women's casual shoes produced at Little Falls Footwear, Incorporated, St. Johnsville, New York 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 Little Falls Footwear, Incoroprated, St. Johnsville, New York who became totally or partially separated from employment on or after June 10, 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 19th day of September 1979.

**Harry J. Gillman,**

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 79-29733 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-5746]

### Lu-Gine Knits, Hawthorne, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determintion 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 16, 1979 in response to a worker petition received on July 9, 1979 which was filed on behalf of workers and former workers producing men's sweaters and shirts at Lu-Gine Knits, Hawthorne, New Jersey. The investigation revealed that the plant produced only men's sweaters. It is concluded that all of the requirements have been met.

U.S. imports of men's and boy's sweaters, knit cardigans and pullovers increased absolutely and relative to domestic production from 1976 to 1977 and from 1977 to 1978.

Lu-Gine Knits is a division of Lord Jeff Knitting Company, Incorporated and performs contract work exclusively for Lord Jeff. Lord Jeff imported men's sweaters during the period 1976 through November 1978. Lord Jeff's imports of sweaters showed a sharp increase from 1977 to 1978, but have been discontinued since the end of 1978.

The Department of Labor conducted a random sample from the universe of customers of Lord Jeff Knitting Company, Incorporated. The survey revealed that imported men's sweaters have gained a strong penetration into the domestic sweater market that is serviced by Lord Jeff. Survey respondents, in aggregate, reported an increased reliance on foreign sources to meet their demand for men's sweaters in 1978 compared to 1977 and in January-June 1979 compared to January-June 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 sweaters produced at Lu-Gine Knits, Hawthorne, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Lu-Gine Knits, Hawthorne, New Jersey who became totally or partially separated from employment on or after June 28, 1978 and before June 1, 1979 are eligible to apply for adjustment asistance under Title II, Chapter 2 of the Trade Act of 1974. All workers of Lu-Gine Knits, Hawthorne, New Jersey who became totally or partially separated from employment on or after June 1, 1979 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 14th day of September 1979.

**James F. Taylor,**

*Director, Office of Management, Administration and Planning.*

[FR Doc. 79-29734 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-5771 and 5780]

## Magnavox Consumer Electronics Co., Morristown and Johnson City, Tenn.; Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigations were initiated on July 25 and 26, 1979 in response to a worker petitions received on July 23 and 24, 1979 which were filed on behalf of workers and former workers producing color TV modules and components including VHF and UHF tuners at the Morristown, Tennessee plant of the Magnavox Consumer Electronics Company (TA-W-5771) and by the International Woodworkers of America on behalf of workers and former workers producing television and stereo cabinets at the Johnson City, Tennessee plant of the Magnavox Consumer Electronics Company (TA-W-5780). 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 subdivisions 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 Morristown and Johnson City, Tennessee plants of the Magnavox Consumer Electronics Company were permanently closed when the company decided to consolidate production operations at the Greeneville and Jefferson City, Tennessee plants, respectively.

The Morristown, Tennessee plant of Magnavox primarily produced television printed circuit boards, flybacks and deflection yokes. These products were used only in the production of color televisions for the Magnavox Company. The Morristown plant officially closed on August 24, 1979 and all production operations were shifted to the Greeneville, Tennessee plant. Total company sales of color televisions increased absolutely from 1977 to 1978. In the first seven months of 1979 compared to the same 1978 period, total sales did not change significantly.

The Johnson City, Tennessee plant of Magnavox produced wood cabinets for televisions and stereos. This plant was closed on June 30, 1979 and all production operations were transferred to the Jefferson City, Tennessee plant which also produces cabinets. Total company production of television and stereo cabinets increased from 1977 to 1978. In the first six months of 1979 compared to the same 1978 period, total sales did not change significantly.

### Conclusion

After careful review, I determine that all workers of the Morristown and Johnson City, Tennessee plants of the Magnavox Consumer Electronics Company 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 18th day of September 1979.

**C. Michael Aho,**

*Director, Office of Foreign Economic Research.*

[FR Doc. 79-29735 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-5388]

## Parflex Rubber Thread Corp., Providence, R.I.; Affirmative Determination Regarding Application for Reconsideration

On August 9, 1979, a former employer of Parflex Rubber Thread Corporation requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers of Parflex Rubber Thread Corporation, Providence, Rhode Island. This determination was published in the **Federal Register** on July 13, 1979, (44 FR 40976).

In issuing the negative determination, the Department cited the results of its survey of Parflex Rubber Thread Corporation's customers which indicated that increased import competition did not contribute importantly to the closing of the worker's firm. However, the petitioners allege, in their application for reconsideration, that imported extruded latex rubber thread was sold on consignment through at least one major domestic supplier and that imported rubber thread was sold to customers of Parflex Rubber Thread Corporation in such quantities as to contribute importantly to the closing of the firm.

### Conclusion

After review of the application, I conclude that this claim of the applicant is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 17th day of September 1979.

**James F. Taylor,**

*Director, Office of Management, Administration and Planning.*

[FR Doc. 79-29736 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-5768]

## Pioneer Products, Inc., East Haddam, Conn.; Determinations 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 investigations regarding certifications of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 20, 1979, in response to a worker petition received on July 15, 1979, which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers and former workers producing finished gun barrels and packaging kits at Pioneer Products, Incorporated, East Haddam, Connecticut. The investigation revealed that Pioneer Products, Incorporated produces assembled guns and gun kits. In the following determinations, without regard to whether any of the other criteria have been met for workers producing gun

kits, 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.

Sales of gun kits at Pioneer Products, Incorporated, increased in quantity from 1977 to 1978 and in the first seven months of 1979 compared to the same period of 1978. The decline in sales of gun kits from fourth quarter 1978 to first quarter 1979 was due to normal business fluctuations.

For workers producing assembled guns all of the criteria have been met.

U.S. imports of pistols and revolvers increased in 1978 compared to 1977 and in the first six months of 1979 compared to the same period in 1978.

U.S. imports of rifles decreased in 1978 compared to 1977 and decreased in the first six months of 1979 compared to the same period in 1978.

Pioneer Products, Incorporated, switched production of assembled guns to a related company in Spain in April 1979. All orders from Pioneer's domestic customers, which wholesale exclusively in the United States, were given to this related Spanish company, beginning in April 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 assembled guns produced at Pioneer Products, Incorporated, East Haddam, Connecticut 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 engaged in the production of assembled guns at Pioneer Products, Incorporated, East Haddam, Connecticut who became totally or partially separated from employment on or after March 31, 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 17th day of September 1979.

**Harry J. Gilman,**

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 79-29737 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5781]

## Robinson-Anton Textile Co., Fairview, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 26, 1979 in response to a worker petition received on July 24, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers processing and dyeing yarn and lace at the Robinson-Anton Textile Company, Fairveiw, New Jersey. The investigation revealed that the company contracted to dye and process lace only. 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 subdivisions have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of manufacturers that have contracted with the Robinson-Anton Textile Company to process and dye lace during 1978 or 1979. None of the manufacturers responding to the survey used foreign contractors or imported any lace in 1978 and 1979.

**Conclusion**

After careful review, I determine that all workers of Robinson-Anton Textile Company, Fairview, 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 19th day of September 1979.

**James F. Taylor,**

*Director, Office of Management, Administration and Planning.*

[FR Doc. 79-29738 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5769]

## South Georgia Pecan Co., Waycross, Ga.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of 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 20, 1979 in response to a worker petition received on July 17, 1979 which was filed by the Retail, Wholesale and Department Store Union on behalf of workers and former workers processing pecans at the Waycross, Georgia plant of South Georgia Pecan Company. 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 petitioner alleged import injury due to the high cost of imported sugar resulting in reduced utilization of pecans in processed foods such as fruit cakes requiring large amounts of sugar. Sugar cannot be considered like or directly competitive with shelled pecans. Only imports of shelled pecans can be considered in determining import injury to workers at the Waycross, Georgia plant of South Georgia Pecan Company, which produces only shelled pecans.

Evidence developed in the course of the investigation revealed U.S. imports of shelled pecans are negligible and declining.

**Conclusion**

After careful review, I determine that all workers of the Waycross, Georgia plant of South Georgia Pecan Company 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 18th day of September 1979.

**James F. Taylor,**

*Director, Office of Management, Administration and Planning.*

[FR Doc. 79-29739 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5731]

### Timex Components, Inc., Somerset, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 10, 1979 in response to a worker petition received on June 29, 1979 which was filed by the International Union of Electrical Workers on behalf of workers and former workers producing liquid crystal displays at the Timex Corporation, Somerset, New Jersey. The investigation revealed that the petitioning workers were employed by Timex Components, Incorporated, a wholly-owned subsidiary of the Timex Corporation. 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 all watch displays produced by Timex Components, Incorporated, Somerset, New Jersey were exported. Sales declines are accounted for by decreases in export sales.

Timex Components, Incorporated, a wholly-owned subsidiary of the Timex Corporation, produced liquid crystal displays for use in the manufacture of digital watches in Taiwan by the parent firm. All of Somerset's production was exported to the Taiwan Facility of Timex Corporation. Neither Timex Components, Inc. nor its parent firm import any liquid crystal displays as finished products. All digital watches sold in the United States by the Timex Corporation are imported from offshore facilities. These watches contain liquid crystal displays as a component.

However, in discussing the term "like or directly competitive" as used in the Trade Act of 1974, the House Ways and Means Committee noted that under the Trade Expansion Act of 1962, the courts concluded that imported finished articles are not like or directly competitive with domestic component parts thereof, *United Shoe Workers of America* v. *Bedell, et. al.*, 506 F. 2d 174 (1974). (S. Rept. 93–1298, 93rd Cong., 2nd Sess., p. 122.) In that case, the court held that imported finished women's shoes were not like or directly competitive with shoe counters. Similarly, watch displays cannot be considered like or directly competitive with finished watches.

#### Conclusion

After careful review, I determine that all workers of Timex Components, Incorporated, Somerset, 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 19th day of September 1979.

**James F. Taylor,**

*Director, Office of Management, Administration and Planning.*

[FR Doc. 79-29740 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

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[TA-W-5659]

### United States Steel Corp., American Bridge Division, Commerce, Calif.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on June 26, 1979 in response to a worker petition received on May 31, 1979 which was filed on behalf of workers and former workers producing structural steel and plate for bridges at the Commerce, California plant of the American Bridge Division of U.S. Steel Corporation. The investigation revealed that the plant primarily produces fabricated steel products.

At a later date, the U.S. Department of Labor received a petition for trade adjustment assistance filed by the United Steelworkers of America on behalf of workers and former workers of the Commerce, California, plant of the American Bridge Division of U.S. Steel Corporation.

In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Commerce, California plant fabricates steel products to customer specification. The plant obtains work through the competitive bid process which involves submitting cost estimates (bids) on supplying fabricated steel to customers. Generally, customers will ask several steel fabricators to submit cost estimates (bids) for supplying fabricated steel to a given project. The customers will normally select the company that submits the lowest cost estimate (bid).

The U.S. Department of Labor evaluated all of the bids the Commerce, California plant submitted from January 1978 through March 1979. The information revealed that the Commerce plant was not the lowest domestic bidder on contracts that were awarded to foreign steel fabricators.

#### Conclusion

After careful review, I determine that all workers of the Commerce, California plant of the American Bridge Division of the United States Steel Corporation 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 19th day of September 1979.

**Harry J. Gilman,**

*Supervisory International Economist, Office of Foreign Economic Research.*

[FR Doc. 79-29741 Filed 9-24-79; 8:45 am]

BILLING CODE 4510-28-M

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-77]

### Renewal of Advisory Committees; Determination

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463) and Office of Management and Budget Circular No. A–63 Revised, the NASA Administrator has determined that renewal of the following NASA advisory committees is in each case in the public interest in connection with the performance of duties imposed upon NASA by law:

1. NASA Advisory Council (NAC);
2. NAC Aeronautics Advisory Committee;

3. NAC Aeronautics Advisory Committee, Subcommittee on Aviation Safety Reporting System;
4. NAC Historical Advisory Committee;
5. NAC Life Sciences Advisory Committee;
6. NAC Space and Terrestrial Applications Advisory Committee;
7. NAC Space Sciences Advisory Committee;
8. NAC Space Systems and Technology Advisory Committee.

September 18, 1979.

**Russell Ritchie,**

*Deputy Associate Administrator for External Relations.*

[FR Doc. 79-29605 Filed 9-24-79; 8:45 am]

BILLING CODE 7510-01-M

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[Notice 79-78]

### Space Science Steering Committee Solar Terrestrial Theory Program Ad Hoc Advisory Subcommittee; Establishment

Pursuant to Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), and after consultation with the Committee Management Secretariat, General Services Administration, NASA has determined that the establishment of an Ad Hoc Advisory Subcommittee for the evaluation of Solar Terrestrial Theory Program proposals, is in the public interest, in connection with the performance of duties imposed upon NASA by law. The Space Science Steering Committee, under which the Subcommittee will operate, is a NASA internal committee, composed wholly of Government employees.

The function of this Subcommittee will be to obtain the advice of the scientific community on proposals in the specialized areas identified by the name of the Subcommittee.

September 18, 1979.

**Russell Ritchie,**

*Deputy Associate Administrator for External Relations.*

[FR Doc. 79-29607 Filed 9-24-79; 8:45 am]

BILLING CODE 7510-01-M

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## NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

### Design Arts Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Design Arts Advisory Panel to the National Council on the Arts, will be held on October 19, 1979, from 9:00 a.m.-5:30 p.m., and on October 20, 1979, from 9:00 a.m.-5:30 p.m. in Room 1422 of the Columbia Plaza Office Building, 2401 E Street, N.W., 20506.

This meeting will be open to the public on a space available basis. The topic for discussion will be Policy.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

**John H. Clark,**

*Director, Office of Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 79-29753 Filed 9-24-79; 8:45 am]

BILLING CODE 7537-01-M

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### Music Advisory Panel (Jazz Section); Amended Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Jazz Section) to the National Council on the Arts (which appeared in the **Federal Register** Vol. 44, No. 177, pg. 52898, Tuesday, September 11, 1979,) is amended as follows: The meeting will be held September 24, 1979 from 9:00 a.m. to 5:30 p.m.; September 25, 1979 from 9:00 a.m. to 5:30 p.m.; September 26, 1979 from 9:00 a.m. to 5:30 p.m.; September 27, 1979 from 9:00 a.m. to 5:30 p.m. and September 28, 1979 from 9:00 a.m. to 5:30 p.m.

A portion of this meeting will be open to the public on september 24, 1979 from 9:00 a.m. to 1:30 p.m.; September 25, 1979 from 1:30 p.m. to 5:30 p.m.; September 27, 1979 from 1:30 p.m to 5:30 p.m. and September 28, 1979 from 3:00 p.m. to 5:30 p.m. Topics for discussion are policy and guidelines.

The remaining sessions of this meeting on September 24, 1979 from 1:30 p.m. to 5:30 p.m.; September 25, 1979 from 9:00 a.m. to 1:30 p.m.; September 26, 1979 from 9:00 a.m. to 5:30 p.m.; September 27, 1979 from 9:00 a.m. to 1:30 p.m. and September 28, 1979 from 9:00 a.m. to 3:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** March 17, 1977, these sessions will be closed to the public pursuant to subsections(c)(4), (6) and (9)(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

**John H. Clark,**

*Director, Office of Council and Panel Operations National Endowment for the Arts.*

[FR Doc. 79-29742 Filed 9-24-79; 8:45 am]

BILLING CODE 7537-01-M

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### Visual Arts Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Visual Arts Advisory Panel to the National Council on the Arts will be held on October 16, 1979, from 9:00 a.m.-5:30 p.m.; and on October 17, 1979, from 9:00 a.m.-5:30 p.m. in Room 1422 of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

This meeting will be open to the public on a space available basis. The topic for discussion will be Policy and Guidelines.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

**John H. Clark,**

*Director, Office of Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 79-29752 Filed 9-24-79; 8:45 am]

BILLING CODE 7537-01-M

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## NATIONAL SCIENCE FOUNDATION

### Advisory Committee for the Division of International Programs; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for the Division of International Program.
Date: October 11, 1979.
Time: 8:30 a.m. to 5:00 p.m.
Place: Room 642, National Science Foundation, 1800 G Street NW., Room 642, Washington, D.C. 20550.
Type of Meeting: Open.
Contact Person: Dr. Bodo Bartocha, Director, Division of International Programs, National Science Foundation, Washington, D.C., 202/632-5798. Persons interested in attending the meeting should inform Dr. Jean M. Johnson, 202/632-6545 before 5:00 p.m. on or before October 8, 1979.
Summary Minutes: May be obtained from Dr. Jean M. Johnson, Division of International Programs, National Science Foundation, Washington, D.C. 20550.

Purpose of Committee: The Advisory Committee for the Division of International Programs provides advice, recommendations, and oversight concerning support for activities related to international scientific and technical cooperation.

Agenda

*Thursday, October 11, 1979, Room 642*

8:30–8:45—Procedures for reporting subcommittee tasks, Dr. Dorothy Zinberg, Chairperson, Advisory Committee.
8:45–9:00—Overview remarks on timing/use of Advisory Committee recommendations in budget cycle, Dr. Bodo Bartocha, Designated Foundation Official for Advisory Committee.
9:00–9:30—Place of NSF/INT in U.S. Government Programs of International S&T, Dr. Coral Newton, Advisory Committee Member.
9:30–11:00—Rationale for expanded programs in INT, Dr. Dorothy Zinbery.
11:00–12:00—An alternative model for funding INT programs with multiple objectives, Dr. Carol Newton.
12:00–1:30—Lunch.
1:30–2:30—New initiatives for INT in the 1980s, Dr. Harvey Wallender, Advisory Committee Member.
2:30–3:30—Relations with other Government agencies in international science, Dr. Jamal Manassah, Advisory Committee Member.
3:30–5:00—1. Selection of final recommendations for annual Advisory Committee report to the Director of NSF; 2. General Discussion.

September 20, 1979.

**Joyce F. Laplante,**

*Acting Committee Management Coordinator.*

[FR Doc. 79-29711 Filed 9-24-79; 8:45 am]

BILLING CODE 7555-01-M

## Advisory Committee for Information Science and Technology; Meeting

In accordance with the Federal Advisory Act, Public Law 92–463, as amended, the National Science Foundation annouces the following meeting:

Name: Advisory Committee for Information Science & Technology.
Date and Time: October 11 & 12, 1979, 9 a.m. to 4 p.m. each day.
Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of Meeting: Open
Contact Person: Mrs. Darcey Higgins, Room 1250, National Science Foundation, Washington, D.C. 20550. Telephone: 202/632–5824. Persons planning to attend should notify Mrs. Higgins by October 5, 1979.
Summary Minutes: May be obtained from the Contact Person, at the above stated address.
Purpose of Committee: To provide advice, recommendations, and oversight concerning support for activities related to the Foundation's program in information science and technology.
Agenda: October 11, 1979—Welcome and Introductory Remarks, Review of the Division of Information Science & Technology Activities for FY 1979, Report and Discussion of Foreign Information Science Research Programs, Core Research Problems in Information Science: Discussion of Report on Behavioral and Linguistic Research Problems, Open public participation. October 12, 1979—Core Research Problems in Information Science: Discussion of Problems Related to Economics, Role of Information Technology, General Discussion of Core Research Problems, Miscellanea, Open Public Participation.

September 20, 1979.

**Joyce F. Laplante,**

*Acting Committee Management Coordinator.*

[FR Doc. 79-29708 Filed 9-24-79; 8:45 am]

BILLING CODE 7555-01-M

## Subcommittee on Law and Social Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Law and Social Sciences of the Advisory Committee for Social Sciences.
Date and Time: October 11 and 12, 1979, 9:00 a.m. to 5:00 p.m. each day:
Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, DC 20550.
Type of Meeting: Part Open—9:00 a.m. to 12:00 p.m., October 12, 1979. Closed—9:00 a.m. to 5:00 p.m., October 11, 1979 and 12:00 p.m. to 5:00 p.m. October 12, 1979.
Contact Person: Dr. Stephen L. Wasby, Program Director, Law and Social Sciences, Room 312, National Science Foundation, Washington, DC 20550, Telephone (202) 632–5816.
Summary of Minutes: May be obtained from the contact person, Dr. Stephen L. Wasby at the above stated address.
Purpose of Subcommittee: To provide advice and recommendations concerning support for research in Law and Social Sciences.
Agenda: Open: 9:00–12:00, October 12—Policy guidelines and Subcommittee presentation. General discussion of program scope and criteria. Closed: to review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

**Joyce F. Laplante,**

*Acting Committee Management Coordinator.*

September 20, 1979.

[FR Doc. 79-29709 Filed 9-24-79; 8:45 am]

BILLING CODE 7555-01-M

## Subcommittee on Systematic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Systematic Biology of the Advisory Committee for Environmental Biology.
Date and time: October 11 and 12, 1979; 8:30 a.m. to 5:00 p.m. each day.
Place: Room 338, National Science Foundation, 1800 G St NW, Washington, D.C. 20550.
Type of Meeting: Closed.
Contact Person: Dr. John H. Beaman, Program Director, Systematic Biology Program, Room 336, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–5846.
Purpose of Subcommittee: To provide advice and recommendations concerning support for research in systematic biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Office pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

**Joyce F. Laplante,**

*Acting Committee Management Coordinator.*

September 20, 1979.

[FR Doc. 79-29710 Filed 9-24-79; 8:45 am]

BILLING CODE 7555-01-M

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–247]**

## Consolidated Edison Co. of New York, Inc.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has

issued Amendment No. 58 to Facility Operating License No. DPR-26, issued to the Consolidated Edison Company of New York, Inc. (the licensee), which revised Technical Specification for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility) located in Buchanan, Westchester County, New York. The Amendment is effective as of the date of issuance.

The amendment requires an inspection of steam generators on or before May 1, 1981.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittal dated August 23, 1979 as supplemented by letter dated August 31, 1979, (2) Amendment No. 58 to License No. DPR-26, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commision's Public Document Room 1717 H Street, N.W., Washingtn, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 7th day of September, 1979.

For the Nuclear Regulatory Commission.

**A. Schwencer,**

*Chief, Operating Reactors Branch #1, Division of Operating Reactors.*

[FR Doc. 79-29648 Filed 9-24-79; 8:45 am]

BILLING CODE 7590-01-M

**[Docket No. 50-255]**

## Consumers Power Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 51 to Provisional Operating License No. DPR-20, issued to Consumers Power Company (the licensee), which revised Technical Specifications for operation of the Palisades Plant (the facility) located in Covert Township, Van Buren County, Michigan. The amendment is effective as of its date of issuance.

The amendment authorizes changes that will enhance low temperature overpressure protection and increase assurance that the reactor vessel will not be subjected to pressure transients which could exceed the limits established in accordance with Appendix G of 10 CFR Part 50.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment did not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated January 3, 1978, and supporting information transmitted by letters dated March 8, 1977, June 24, 1977, and November 28, 1977, (2) Amendment No. 51 to License No. DPR-20, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 10th day of September, 1979.

For the Nuclear Regulatory Commission.

**Dennis L. Ziemann,**

*Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.*

[FR Doc. 79-29649 Filed 9-24-79; 8:45 am]

BILLING CODE 7590-01-M

**[Docket No. 70-1257]**

## Receipt of Application and Intent to Prepare an Environmental Assessment Concerning Renewal of License SNM-1227 Exxon Nuclear Co., Inc.

**AGENCY:** U.S. Nuclear Regulatory Commission, Division of Fuel Cycle and Material Safety.

**ACTION:** Notice of Receipt of Application for Renewal of License and Intent to Prepare an Environmental Assessment.

**SUMMARY:** 1. Description of the Proposed Action—Exxon Nuclear Company, Inc., pursuant to § 70.33 of 10 CFR Part 70, has requested renewal of a Special Nuclear Material license to acquire, receive, possess, use and transfer uranium and plutonium materials at its Richland, Washington, Fuel Development and Fabrication Plant. The 160-acre Exxon Nuclear site is located at the northern city limits of Richland, in Benton County. The Atomic Energy Act of 1954, as amended, requires persons who acquire, deliver, receive, possess, use and initially transfer special nuclear material to obtain a specific license. Licenses are issued for a five-year term and renewal of the license must be requested at least 30 days prior to expiration. Title 10 of the Code of Federal Regulations, Part 51, provides for the preparation of an environmental assessment pursuant to the National Environmental Policy Act of 1969 (NEPA) prior to the renewal of a Special Nuclear Material License.

2. In preparation of the assessment, the staff will review environmental monitoring data, waste treatment systems, the environmental monitoring program and consider the alternative of denial of the application for renewal.

3. In conducting its assessment, the NRC staff will consult with interested State and local agencies, EPA Regional Office, and interested members of the public as well as the applicant. Based on the environmental assessment, the staff will determine whether to prepare an environmental impact statement or make a finding of no significant impact.

4. The assessment is expected to be available to the public in April 1980. Upon completion of the environmental assessment, a notice will be published in the **Federal Register.**

5. The NRC evaluation of the renewal application will include both the

environmental effects and the safety of the operations conducted under the license. Thus, in addition to the types of environmental data to be reviewed in preparing the environmental assessment, the evaluation will cover NRC inspection records, Exxon organization, administrative procedures, the radiological safety program including exposure controls and levels experienced, and the nuclear criticality safety program. The results of the safety evaluation will be reported in a Safety Evaluation Report (SER) to be available (about May 1980) as a separate document from the environmental assessment.

6. The Application for Renewal of Special Nuclear Material License No. SNM-1277 and Addendum 5 to Applicant's Environmental Report and any subsequent documents will be available for inspection and copying at the Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Local Public Document Room, Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352. Address: Questions about the renewal application should be directed to Mr. R. L. Stevenson, Project Manager, U.S. Nuclear Regulatory Commission, Division of Fuel Cycle and Material Safety, 396-SS, Washington, D.C. 20555, Phone (301) 427-4510.

Dated at Silver Spring, Maryland, this 14th day of September, 1979.

For the Nuclear Regulatory Commission.

**W. T. Crow,**

*Section Leader, Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety.*

[FR Doc. 79-29650 Filed 9-24-79; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50-302]**

## Florida Power Corp., et al.; Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 24 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. This amendment is effective as of the date of issuance.

The amendment revises the Appendix A Technical Specifications to incorporate the approved dome delamination surveillance program, correct typographical errors and make the Technical Specifications more consistent with the current Standard Technical Specifications.

The amendment also revises the Appendix B Technical Specifications to incorporate modifications to the environmental sampling program.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated November 21 and 23, 1977, July 21, 1977, March 17, 1978, and September 22, 1978, (2) Amendment No. 24 to License No. DPR-72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Crystal River Public Library, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 6th day of September 1979.

For the Nuclear Regulatory Commission.

**Robert W. Reid,**

*Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.*

[FR Doc. 79-29651 Filed 9-24-79; 8:45 am]

BILLING CODE 7590-01-M

**[Docket No. 50-298]**

## Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 59 to Facility Operating License No. DPR-46, issued to Nebraska Public Power District, which revised the Technical Specifications for operation of the Cooper Nuclear Station, located in Nemaha County, Nebraska. The amendment is effective as of the date of issuance.

The amendment modifies the Technical Specifications to require a five man fire brigade. The Safety Evaluation related to this change was issued on May 23, 1979 along with Amendment No. 56 to License No. DPR-46.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the formal application for amendment dated July 17, 1979, (2) Amendment No. 59 to License No. DPR-46, and (3) the Commission's letter to the licensee dated September 18, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Auburn Public Library, 118—15th Street, Auburn, Nebraska 68305. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 18th day of September 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

*Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.*

[FR Doc. 79-29652 Filed 9-24-79; 8:45 am]

BILLING CODE 7590-01-M

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[Docket No. STN 50-484]

## Northern States Power Co., et al. (Tyrone Energy Park, Unit 1); Request for Action

Notice is hereby given that by petition dated August 15, 1979, the Badger Safe Energy Alliance requested that an order be issued to Northern States Power Co., et al., to revoke the construction permit for the Tyrone Park because of the Applicants' stated decision to cancel the project. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., 20555 and in the local public document room at the University of Wisconsin, Stout Library, Menomonie, Wisconsin, 54751.

Dated at Bethesda, Maryland this 14th day of September 1979.

Edson G. Case,

*Acting Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 79-29653 Filed 9-24-79; 8:45 am]

BILLING CODE 7590-01-M

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[Docket Nos. 50-282 and 50-306]

## Northern States Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulartory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. DPR-42, and Amendment No. 33 to Facility Operating License No. DPR-60 issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2 (the facilities) located in Goodhue County, Minnesota. Paragraph 2.C.(4) will become effective twenty days after the date of the notice of issuance unless a hearing has been requested. All other portions of the amendments will become effective upon the date of issuance.

The amendments add license conditions and change Technical Specifications relating to the completion of facility modifications and the implementation of administrative controls resulting from the review of the Prairie Island Nuclear Plant fire protection program.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commision has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated January 31, 1977 as amended December 22, 1977, submittals dated March 11, 1977, and supplemented dated July 5, 1977, April 18, May 18, June 22, and November 8, 1978, January 2 and 9, March 9, May 2, and July 5, 1979, (2) Amendment Nos. 39 and 33 to License Nos. DPR-42 and DPR-60, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 6th day of September, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

*Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.*

[FR Doc. 79-29654 Filed 9-24-79; 8:45 am]

BILLING CODE 7590-01-M

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[Dockets Nos. 50-277 and 50-278]

## Philadelphia Electric Co., et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 60 and 60 to Facility Operating License Nos. DPR-44 and DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3 (the facility) located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

The amendments revise the table of Primary Containment Isolation Valves to reflect the re-routing of the Control Rod Drive Return Line to the Reactor Water Cleanup System.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated April 14, 1978 with supplemental information dated November 18, 1977, June 22 and August 27, 1979, (2) Amendments Nos. 60 and 60 to License Nos. DPR-44 and DPR-56, and (3) the Commission's letter dated September 19, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 19th day of September 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

*Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.*

[FR Doc. 79-29655 Filed 9-24-79; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-277 and 50-278]

## Philadelphia Electric Co., et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 59 and 59 to Facility Operating License Nos. DPR-44 and DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3 (the facility) located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to delete the restriction on fuel decay time prior to movement of fuel elements from the reactor vessel to the spent fuel pool.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 27, 1979, (2) Amendment Nos. 59 and 59 to License Nos. DPR-44 and DPR-56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 17th day of September 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

*Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.*

[FR Doc. 79-29656 Filed 9-24-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-272]

## Public Service Electric and Gas Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 18 to Facility Operating License No. DPR-70, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 1 (the facility) located in Salem County, New Jersey. The amendment is effective as of the date of issuance.

The amendment revises the safety Technical Specifications regarding diesel generator trips to confirm them with the proposed Salem Unit No. 2 allowable diesel generator trips.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 14, 1979, (2) Amendment No. 18 to License No. DPR-70, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

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

For the Nuclear Regulatory Commission.

A. Schwencer,

*Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.*

[FR Doc. 79-29657 Filed 9-24-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-272]

## Public Service Electric & Gas Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR-70, issued to Public Service Electric and Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised the Technical Specifications for operation of the Salem Nuclear Generating Station, Unit No. 1 (the facility) located in Salem County, New Jersey. The amendment is effective as of the date of issuance.

The amendment makes changes that delete those non-radiological Technical Specifications in Appendix B to the License that are duplicated in the 316(b) Plan of Study required by the Environmental Protection Agency.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated December 21, 1977 as supplemented May 9, 1979 and (2) Amendment No. 19 to License No. DPR-70. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. A copy of items (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 12th day of September 1979.

For the Nuclear Regulatory Commission.

**A. Schwencer,**

*Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.*

[FR Doc. 79-29658 Filed 9-24-79; 8:45 am]

**BILLING CODE 7590-01-M**

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**[Docket Nos. 50-280 and 50-281]**

### Virginia Electric & Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 52 and 51 to Facility Operating License Nos. DPR-32 and DPR-37 issued to Virginia Electric and Power Company, which revised Technical Specifications for operation of the Surry Power Station, Unit Nos. 1 and 2 (the facility) located in Surry County, Virginia. The amendment to DPR-32 is effective no later than return to power from the next cold shutdown, and the amendment to DPR-37 is effective as the date of issuance.

These amendments revise the Technical Sepcifications to require the initiation of safety injection on the trip of two-out-of-three, rather than on the coincident trip of one-out-of-three channels of low pressurizer pressure and one-out-of-three channels of low pressurizer level. This change eliminates reliance on pressurizer level for actuation of the safety injection system and reduces the likelihood of actuation of the safety injection system by spurious signals.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendment dated August 8, 1979, (2) Amendment Nos. 52 and 51 to License Nos. DPR-32 and DPR-37, and (3) the Commision's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and the Swem Library, College of William and Mary, Williamsburg, Virginia. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 6th day of September, 1979.

For the Nuclear Regulatory Commission.

**A. Schwencer,**

*Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.*

[FR Doc. 79-29659 Filed 9-24-79; 8:45 am]

**BILLING CODE 7590-01-M**

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**[Docket Nos. 50-280 and 50-281]**

### Virginia Electric & Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 53 and 52 to Facility Operating License Nos. DPR-32 and DPR-37 issued to Virginia Electric and Power Company, which revised Technical Specifications for operation of the Surry Power Station, Unit Nos. 1 and 2 (the facility) located in Surry County, Virginia. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to (1) reflect reorganization of the Production Operations Department onsite and offsite, (2) delete reference to the respiratory protection equipment since this item is now covered by 10 CFR 20.103 of Part 20 of the Commission's regulations, (3) increase the fire brigade training and drill interval to 92 days, and (4) incorporate several minor clarifications and typgraphical corrections.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 31, 1978 as supplemented December 28, 1978, January 19, and May 4, 1979, (2) Amendment Nos. 53 and 52 to License Nos. DPR-32 and DPR-37, and (3) the Commission's letter dated September 11, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Swem Library, College of William and Mary, Williamsburg, Virginia. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of September, 1979.

For the Nuclear Regulatory Commission.

**A. Schwencer,**

*Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.*

[FR Doc. 79-29660 Filed 9-24-79; 8:45 am]

**BILLING CODE 7590-01-M**

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## OFFICE OF PERSONNEL MANAGEMENT

### Performance Review Board

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the names of the members of the Performance Review Board.

**DATE:** September 25, 1979.

**FOR FURTHER INFORMATION CONTACT:** Sharon Barbee, Career Management Division, Office of Personnel, Office of Personnel Management, 1900 E Street NW., Washington, DC, 20415 (202-632-7484).

**SUPPLEMENTARY INFORMATION:** Sec. 4314(c)(1) through (5) of title 5, U.S.C.,

requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Office of Personnel Management.

**Beverly M. Jones,**

*Issuance Systems Manager.*

**The Members of the Performance Review Board are**

1. Robert J. Dunn, Regional Director, Rocky Mountain Region
2. Carlos Esparza, Deputy Regional Director, Mid-Atlantic Region
3. Edie Goldenberg, Director, CSRA Evaluation Division, Office of Planning and Evaluation
4. John J. Lafferty, Regional Director, Eastern Region
5. Kristine Marcy, Assistant Director, Agency Relations
6. James W. Morrison, Jr., Assistant Director, Agency Relations
7. S. B. Pranger, Associate Director, Agency Relations
8. Arch S. Ramsay, Associate Director, Staffing Services
9. Edward A. Schroer, Director, Office of Planning and Evaluation 6325–01

[FR Doc. 79-29487 Filed 9-24-79; 8:45 am]

BILLING CODE 6325-01-M

## POSTAL RATE COMMISSION

### Visits to Postal Facilities

September 19, 1979.

Notice is hereby given that members of the Commission will make visits to the following postal facilities for the purpose of acquiring general background knowledge of postal operations.

September 28—Los Angeles (CA) BMC and AMF
October 1–2—Honolulu (HI) Post Office
October 4–5—Kahulu and Wailuku (HI) Post Offices
October 9—Seattle (WA) BMC and SCF
October 10–12—Anchorage, Juneau, Fairbanks and Ketchikaw, (AL) Post Offices

A member of the advisory staff will visit the following facilities for general orientation.

October 4—Fredericksburg (VA) Post Office
October 5—Largo (MD) BMC
October 9—Merrifield (VA) SCF
October 10—Philadelphia (PA) Post Office
October 11—United Parcel Service, Philadelphia, PA

A report of all visits will be on file in the Commission's Docket Room.

**David F. Harris,**

*Secretary.*

[FR Doc. 79-29705 Filed 9-24-79; 8:45 am]

BILLING CODE 7715-01-M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 10870; 812-4412]**

### Massachusetts Tax Exempt Unit Trusts, Series 1 Through 6 (and Subsequent Series); Filing of Application for Order of the Act Exempting Proposed Reinvestment Program

September 17, 1979.

In the matter of Massachusetts Tax Exempt Unit Trusts, Series 1 Through 6 (and Subsequent Series), and Moseley, Hallgarten, Estabrook & Weeden Inc., 60 State Street, Boston, Massachusetts 02109.

NOTICE is hereby given that Massachusetts Tax Exempt Unit Trusts, Series 1 through 6 (and Subsequent Series) ("Trusts"), unit investment trusts organized under the laws of the Commonwealth of Massachusetts and registered under the Investment Company Act of 1940 ("Act"), and Moseley, Hallgarten, Estabrook & Weeden Inc. ("Sponsor"), sponsor for the Trusts (the Trusts and the Sponsor are hereinafter referred to collectively as "Applicants"), filed an application on December 22, 1978, and amendments thereto on February 1, 1979, and August 3, 1979, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Section 22(d) of the Act to permit Applicants to offer certificateholders of the Trusts the opportunity to participate in a reinvestment option plan ("Plan") pursuant to which certificateholders who have selected a semi-annual plan of distrbution could elect to have distributions on their units of the Trusts automatically reinvested, at a reduced sales charge, in units of the Trusts. 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.

Applicants state that the Trusts are a series of similar, but separate, unit investment trusts and that, to date, six such series have been created. Applicants further state that: (i) New England Merchants National Bank ("Merchants") serves as trustee for Series 1 through 5; (ii) Bradford Trust Company of Boston ("Bradford") serves as trustee for Series 6 and Subsequent Series (Merchants and Bradford are hereinafter referred to collectively as the "Trustee"); and (iii) Bradford Trust Company, a New York corporation, will serve as the plan agent for participants in the Plan ("Plan Agent").

According to the application: (i) The investment objective of each series of the Trusts is tax-exempt income and the preservation of capital through investment in a diversified portfolio of tax-exempt bonds; (ii) a separate trust indenture is entered into each time a new series is created, and the bonds which are to comprise the portfolio of the new series are deposited with the Trustee; (iii) the obligations included in a series portfolio consist of interest bearing obligations of states and territories of the United States, and political sub-divisions and authorities thereof, the interest on which would, in the opinion of bond counsel to the issuing governmental authority, be exempt from federal income tax; and (iv) certificateholders are permitted to elect to receive interest and principal distributions from the Trusts either on a monthly or semi-annual basis. Applicants state that units of the Trusts will be offered for sale to the public at a public offering price of approximately $1,045 per Unit plus accrued interest, such price including a sales charge currently equal to 4½% of the public offering price.

Applicants propose to offer certificateholders who have selected the semi-annual plan of distribution the opportunity to automatically reinvest income and principal distributions into units of a subsequent series or into units of a previously formed series, if available, which have been purchased by the Sponsor in the secondary market and with respect to which a registration statement is currently in effect. The application states that the semi-annual dates upon which distributions from the Trusts are made ("Payment Date") have been June 15 and December 15. Applicants anticipate that the Payment Dates will be the same for all subsequent series. Applicants state that pursuant to the Plan, the Sponsor will purchase fractional units ("Plan Units") at a price equal to the aggregate offering price per unit of the debt obligations in the Trust portfolio divided by 10, plus a sales charge equal to 3.627% of the offering side evaluation of such debt obligations (3½% of the offering price per Plan Unit), plus interest accrued on the Plan Units, if any. According to the application, the purchase of Plan Units will permit the maximum use of

distributions for purchases pursuant to the Plan. Thus, Applicants anticipate that the entire amount of a participant's income and principal distributions will be reinvested. Applicants state that the Sponsor does not intend to maintain a secondary market for Plan Units, although it reserves the right to do so. Thus, unless participants are able to find a buyer for their Plan Units, they will be able to dispose of Plan Units only by tendering them to the Trustee for redemption.

According to the application, certificateholders will be able to join the Plan at any time by delivering an authorization form to the Plan Agent. Applicants state that following enrollment by a certificateholder in the Plan, semi-annual distributions of interest and principal on Units of the Trusts held by such certificateholder (including distributions on Plan Units, unless the certificateholder notifies the Trustee to the contrary) will be aggregated and will be paid by the Trustee to the Plan Agent who will, immediately upon receipt, purchase from the Sponsor on behalf of the certificateholder Plan Units of a series of the Trusts created subsequent to the commencement of the Plan (or Plan Units of a previously formed series, if available) on the Payment Dates. Applicants further state that it is the Sponsor's intention, subject to market conditions, to offer a new series of the Trusts on or about the first days of June and December (approximately 15 days prior to each Payment Date). The application states that if such new series is not currently effective on any Payment Date, or if such new series materially differs from the other existing Trusts, in the opinion of the Sponsor, no reinvestment will be made in such new series, but will be made in other available Trusts. According to the application, participants in the Plan will be provided with a current prospectus relating to a subsequent series at least 12 days prior to the Payment Date in order to provide participants with sufficient time to review the prospectus. In the event that a registration statement for a new series has not been declared effective in sufficient time to distribute final prospectuses, and a registration statement respecting another series is not currently effective, the Plan will be suspended with respect to that Payment Date and recommenced on the next Payment Date, and the funds accumulated in the account for reinvestment will be distributed to the participants. The application states that no reinvestment of distributions will be made in any series which, in the opinion of the Sponsor, is materially different from other series of the Trusts.

Applicants state that when a certificateholder enrolls in the Plan, the Plan Agent will open an account in that participant's name and forward a confirmation of the opening of the account to the participant. Thereafter, whenever a transaction occurs in the account, the participant will receive a confirmation statement describing the transaction. According to the application, a participant may withdraw from the Plan at any time by giving written notice of such withdrawal to the Plan Agent. In cases where the participant does not give the Plan Agent written notice of withdrawal by the Payment Date, the participant will be deemed to have elected to participate in the Plan with respect to the particular transaction occurring on the Payment Date. Applicants state that unless a participant indicates in the written notice that the withdrawal is only for the particular transaction occurring on the Payment Date, or that the withdrawal is to be applicable only for certain series of the Trust owned by the participant, the participant will be deemed to have withdrawn from the Plan in all respects. Applicants further state that if the Plan should be suspended, modified or terminated by the Sponsor or by the Trustee for any reason, all participants will receive notice of such suspension, modification or termination.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter or the issuer, except at a current public offering price described in the propectus. As noted above, under the Plan, Applicants propose to sell units of the Trusts at a reduced sales charge. Thus, Applicants have requested an order, pursuant to Section 6(c) of the Act, exempting them from the provisions of Section 22(d) of the Act to the extent necessary to permit the implementation of the Plan.

Section 6(c) of the Act provides, in pertinent part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Although Applicants propose to offer Plan Units at a sales charge of 3½% per Plan Unit rather than at the sales charge of 4½% per unit which is applicable to all primary and secondary sales of units of the Trusts, they note that approximately 3% of the customary 4½% sales charge is attributable to efforts relating to initial customer solicitation and ascertaining customers' financial requirements. Applicants state that the costs of the Plan will be allocable as follows: (i) 1½% per Plan Unit will be allocated by the Sponsor to the soliciting broker for his professional assistance to a Plan participant; (ii) 1% per Plan Unit will be allocated to special expenses relating to the Plan including (a) maintenance of Trustee records, (b) mailing, shipping, and miscellaneous delivery charges, and (c) printing charges; and (iii) 1% per Plan Unit will be allocated to expenses relating to the establishment of new series. According to the application, such costs will be covered by the imposition of the 3½% sales charge.

Applicants submit that the reduced sales charge applicable to purchases pursuant to the Plan is beneficial to Plan participants and warranted in light of the cost savings associated with the Plan. They further submit that such reduced sales charge will permit participants to receive the benefit of the cost savings associated with sales of Plan Units.

Notice is further given that any interested person may, not later than October 11, 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 Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and

regulations promulgated under the Act, an order disposing of the application 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.

**Shirley E. Hollis,**

*Assistant Secretary.*

[FR Doc. 79-29620 Filed 9-24-79; 8:45 am]

BILLING CODE 8010-01-M

## SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

### Notice of Open Meeting

The Select Commission on Immigration and Refugee Policy will hold its second meeting on:

*Date:* October 9, 1979 (Tuesday)

*Time:* 10:00–12:00

*Place:* The State Department, Room 1107, 2201 C Street, N.W., Washington, D.C.

Included on the agenda will be organizational and business matters followed by substantive discussion on the commission's work.

The meeting is open to the public. Seating will be available for 85 people. A section will be reserved for the media.

Written statements may be filed with the Commission before or after the meeting.

The Select Commission on Immigration and Refugee Policy was created by Public Law 95–412, signed October 5, 1978. The Commission is charged with a comprehensive review of U.S. immigration laws, policies, and procedures. Membership on the commission includes four Cabinet members, four members of the House Committee on the Judiciary, four members of the Senate Judiciary Committee, and four members appointed by the President, including former Governor Reubin Askew, Chairman.

Address inquiries to: Select Commission on Immigration and Refugee Policy, Suite 2020, New Executive Office Building, Telephone: (202) 395–5615.

**Lawrence H. Fuchs,**

*Executive Director.*

[FR Doc. 79-29614 Filed 9-24-79; 8:45 am]

BILLING CODE 6820-AR-M

## SMALL BUSINESS ADMINISTRATION

### Affiliated SBIC, Inc.; Surrender of License to Operate as a Small Business Investment Company

**[License No. 06/06-0198]**

Notice is hereby given that Affiliated SBIC, Inc., Affiliated Road and Kennedy Street, Broussard, Louisiana 70518, pursuant to the provisions of § 107.105 of the Regulations governing small business investment companies (13 CFR 107.105 (1979)), has surrendered its license to operate as a small business investment company (SBIC).

Affiliated was incorporated under the laws of the State of Louisiana to operate solely as an SBIC under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), (the Act), and it was issued license number 06/06–0198 by the Small Business Administration on September 6, 1978.

Under the authority vested by the Act and the Rules and Regulations promulgated thereunder, the surrender of the license of Affiliated is hereby accepted and accordingly, it is no longer licensed to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 14, 1979.

**Peter F. McNeish,**

*Acting Associate Administrator for Finance and Investment.*

[FR Doc. 79-29756 Filed 9-24-79; 8:45 am]

BILLING CODE 8025-01-M

### California Partners; Issuance of Small Business Investment Company License

**[License No. 09/09-0242]**

On August 23, 1979, a Notice of application for a license to operate as a small business investment company was published in the **Federal Register** (Vol. 44 No. 165) stating that an application has been filed with the Small Business Administration pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102(1979)) for a license to operate as a small business investment company by California Partners, Two Palo Alto Square, Suite 700, Palo Alto, California 94304.

Interested parties were given until the close of business September 7, 1979, to submit their comments. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information with regard thereto, SBA issued License No. 09/09–0242 to California Partners to operate as a small business investment company on September 12, 1979.

(Catalog of Federal Domestic Programs No. 59.011, Small Business Investment Companies)

Dated: September 19, 1979.

**Peter F. McNeish,**

*Acting Associate Administrator for Finance and Investment.*

[FR Doc. 79-29759 Filed 9-24-79; 8:45 am]

BILLING CODE 8025-01-M

**[License No. 10/10-0168]**

### Market Acceptance Corp.; Issuance of a Small Business Investment Company License

On July 6, 1979, a notice was published in the **Federal Register** (44 FR 39678) stating that an application has been filed by Market Acceptance Corporation, 1111 Northwest Market Street, Seattle, Washington 98107, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102(1979)) for a license as a small business investment company.

Interested parties were given until close of business July 21, 1979, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 10/10–0168 on September 12, 1979, to Market Acceptance Corporation, to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 19, 1979.

**Peter F. McNeish,**

*Acting Associate Administrator for Finance and Investment.*

[FR Doc. 79-29757 Filed 9-24-79; 8:45 am]

BILLING CODE 8025-01-M

**[Delegation of Authority No. 30, Rev. 15, Amdt. 32]**

### Program Activities in Field Offices; Delegation of Authority

Delegation of Authority No. 30, Rev. 15, republished in the Federal Register on November 24, 1978 (43 FR 5220), as amended (44 FR 963, 44 FR 5039, 44 FR 19572, 44 FR 21108, 44 FR 46553, and 44 FR 48408), is further amended to delegate authority for the 8(a)

Contracting Authority to the Baltimore District Office.

Accordingly, Part VI of Delegation of Authority No. 30, Revision 15, is amended as follows:

**Part VI—Procurement Assistance Program**

* * * * *

Section B—*Section 8(a)(1)(A) Contracting Authority*

1. * * *

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f. District Director, Washington, Denver Unlimited Richmond, Philadelphia, and Baltimore, D/O's only

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2. * * *

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f. District Director, Washington, Denver Unlimited St. Louis, Richmond, Philadelphia, and Baltimore D/O's only

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3. * * *

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f. District Director, Washington, Denver, Unlimited, Philadelphia, Richmond, St. Louis, and Baltimore D/O's only

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Effective Date: September 4, 1979.

Dated: September 18, 1979.

**A. Vernon Weaver,**

*Administrator.*

[FR Doc. 79-29758 Filed 9-24-79; 8:45 am]

BILLING CODE 8025-01-M

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## Region III Advisory Council; Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Philadelphia, Pennsylvania, will hold a public meeting at 9:30 a.m., Thursday, October 18, 1979, at the Treadway Inn, Route 315, Plains Township, Wilkes Barre, Pennsylvania, 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 William T. Gennetti, District Director, U.S. Small Business Administration, Philadelphia District Office, One Bala Cynwyd Plaza, Suite 400–East Lobby, Bala Cynwyd, Pennsylvania 19004—(215) 596–5801.

Dated: September 20, 1979.

**K. Drew,**

*Deputy Advocate for Advisory Councils.*

[FR Doc. 79-29764 Filed 9-24-79; 8:45 am]

BILLING CODE 8025-01-M

## Region IV Advisory Council; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Columbia, South Carolina, will hold a public meeting at 10:00 a.m., Wednesday, October 24, 1979, in the Board Room of the National Bank of South Carolina, 207 N. Main Street, Sumter, S.C., to discuss such matters as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Vern F. Amick, District Director, U.S. Small Business Administration, 1835 Assembly Street (Post Office Box 2786), Columbia, South Carolina 29202—(803) 765–5373.

Dated: September 20, 1979.

**K. Drew,**

*Deputy Advocate for Advisory Councils.*

[FR Doc. 79-29763 Filed 9-24-79; 8:45 am]

BILLING CODE 8025-01-M

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## Region VII Advisory Council; Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Omaha, Nebraska, will hold a public meeting at 9:30 a.m. to 2:00 p.m., Thursday, November 15, 1979, in the Conference Room, Omaha District Office, U.S. Small Business Administration, 19th and Farnam, Omaha, Nebraska, 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 Rick Budd, District Director, U.S. Small Business Administration, 19th and Farnam, Omaha, Nebraska 68102—(402) 221–3620.

Dated: September 20, 1979.

**K. Drew,**

*Deputy Advocate for Advisory Councils.*

[FR Doc. 79-29762 Filed 9-24-79; 8:45 am]

BILLING CODE 8025-01-M

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## Region IX Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Phoenix, Arizona, will hold a public meeting at 12:00 Noon, Wednesday, October 17, 1979, in the Gold Room of the Royal Towers Inn, 1102 N. Central Avenue, Phoenix, Arizona, 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 Mack Kehoe, Public Information Officer, U.S. Small Business Administration, 112 North Central Avenue, Phoenix, Arizona 85004—(602) 261–3625.

Dated: September 20, 1979.

**K. Drew,**

*Deputy Advocate for Advisory Councils.*

[FR Doc. 79-29761 Filed 9-24-79; 8:45 am]

BILLING CODE 8025-01-M

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## Region X Advisory Council; Public Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Spokane, Washington, will hold a public meeting at 9:00 a.m., Pacific Daylight Time, Wednesday, October 17, 1979, in Room 695, U.S. Court House Building, West 920 Riverside Avenue, Spokane, Washington, 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 William S. Schumacher, District Director, U.S. Small Business Administration, U.S. Court House, Room 651, Post Office Box 2167, Spokane, Washington 99210—(509) 456–3781, FTS 439–3781.

Dated: September 20, 1979.

**K. Drew,**

*Deputy Advocate for Advisory Councils.*

[FR Doc. 79-29760 Filed 9-24-79; 8:45 am]

BILLING CODE 8025-01-M

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# DEPARTMENT OF STATE

**[Public Notice CM-8/229]**

## Study Group 6 of the U.S. Organization for the International Radio Consultative Committee; Meeting

The Department of State announces that Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on November 8, 1979, at Boulder, Colorado. The meeting will open on November 8 at 9:00 a.m. in Room 3012 of the Department of Commerce Boulder Laboratories Building, 325 Broadway.

Study Group 6 deals with matters relating to the propagation of radio waves by and through the ionosphere. The purpose of the meeting will be to review the work undertaken in preparation for the next international meeting of Study Group 6, scheduled for June, 1980, in Geneva.

Members of the general public may attend the meeting and join in the

discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632–2592.

Dated: September 18, 1979.

Gordon L. Huffcutt,

*Chairman, U.S. CCIR National Committee.*

[FR Doc. 79-29700 Filed 9-24-79; 8:45 am]

BILLING CODE 4710-07-M

## DEPARTMENT OF THE TREASURY

### Comptroller of the Currency

### Marine Midland Bank; Notice of Public Hearing on the Application To Convert to a National Banking Association

A public hearing will be held on Monday, October 22, 1979, in Buffalo, New York and on Tuesday, October 23, 1979, in New York, New York on the application of Marine Midland Bank, Buffalo, New York to convert to a National Banking Association. This application was accepted for filing on July 2, 1979, by the Regional Administrator of National Banks, Second National Bank Region.

The hearing place in Buffalo, New York will be the Federal Building, 111 West Huron Street, Rooms 912–914.

The hearing place in New York, New York will be the U.S. Customs House, 6 World Trade Center, Church and Vesey Streets, Room 541–D.

Hours of the hearing will be 9:00 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m. on both days.

In accordance with the rules established for these proceedings, persons or groups interested in participating in this hearing must notify the Regional Administrator of National Banks, Second National Bank Region, 1211 Avenue of the Americas, Suite 4250, New York, New York 10036, (212) 399–2997, by October 15, 1979, of their intention to participate in the hearing, and submit the names of the participants and copies of the written material to be presented. Additionally, notification should indicate the location at which the participants will appear. Copies of the rules established for the conduct of this hearing will be mailed to all participants.

Dated: September 21, 1979.

John G. Heimann,

*Comptroller of the Currency.*

[FR Doc. 79-29910 Filed 9-24-79; 8:45 am]

BILLING CODE 4810-33-M

### Customs Service

### Certain Ferroalloys From Brazil; Preliminary Countervailing Duty Determination

**AGENCY:** U.S. Customs Service, Treasury Department.

**ACTION:** Preliminary Countervailing Duty Determination.

**SUMMARY:** This notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of Brazil has given benefits which may constitute bounties or grants on the manufacture, production, or exportation of certain ferroalloys. If a final determination is not reached prior to December 31, 1979, it will be made no later than March 17, 1980, consistent with section 102(a)(2) of the Trade Agreements Act of 1979. Interested persons are invited to comment on this action.

**EFFECTIVE DATE:** September 25, 1979.

**FOR FURTHER INFORMATION CONTACT:** Michael Ready, Operations Officer, Technical Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, telephone (202–566–5492).

**SUPPLEMENTARY INFORMATION:** On May 11, 1979, a notice of "Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the **Federal Register** (44 FR 27782–27783). The notice stated that a petition had been received alleging that benefits conferred by the Government of Brazil upon the manufacture, production, or exportation of certain ferroalloys constitute the payment or bestowal of bounties or grants, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

The merchandise covered by the investigation are ferrochrome containing over 3 percent by weight of carbon classified under item number 607.3100 of the Tariff Schedules of the United States Annotated (TSUSA); ferromanganese containing over 4 percent by weight of carbon under TSUSA item number 607.3700; ferrosilicon manganese under TSUSA item number 607.5700; and ferrosilicon containing over 60 percent but not over 80 percent by weight of silicon under TSUSA item number 607.5100.

On the basis of an investigation conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), it has been determined preliminarily that certain programs of the Government of Brazil provide benefits to manufacturers and/or exporters of the subject merchandise which may constitute bounties or grants within the meaning of section 303 of the Act. These benefits have been conferred under the following programs:

(1) Excessive remission upon export of the Industrial Products Tax (IPI), a value added tax. The excessive remission consists of the granting, upon export, of an IPI tax credit greater than IPI taxes actually incurred during the production process. These extra credits can be used by the firm to offset other taxes owed, and in some instances can be converted into cash or transferred from one firm to another. To the extent the excessive credits have been utilized by ferroalloy manufacturers/exporters to reduce other tax liabilities or have been transferred or sold for cash value, a bounty or grant would exist. It has been established that ferroalloy manufacturers have received and utilized these credits, although the extent of utilization has not yet been calculated.

(2) Reduction of taxable income by the percentage of total sales accounted for by export sales. In *Textile Products from Brazil* (43 FR 53422, November 16, 1978), the Treasury Department stated that "[w]hile export earnings are exempted from the payment of income taxes and [are] therefore a bounty, the possible benefits derived therefrom were not computed into the final bounty in view of the uncertainty of the overall tax effect of the IPI/ICM credits, which themselves are treated as income."

In the absence of information concerning the actual experience of the ferroalloy manufacturers with regard to the utilization of IPI credits, the relationship between export and domestic sales, and the profitability of the firms under investigation, this program is preliminarily considered a bounty or grant.

(3) Preferential credit arrangements for the production of ferroalloys destined for export under Resolution 515, which recently superseded Resolution 398. Under Resolution 515, ferroalloy manufacturers can receive working capital financing up to a fixed percentage of the value of the previous year's exports at interest rates below those available commercially for loans of identical terms. It was also alleged that the terms of the loans under Resolution 398 might be preferential, in particular that they are exempt from the assessment of a 1 percent financial transactions tax (ISOF). It has been determined that these loans are in fact exempted from the ISOF and this fact will be included in the calculation of benefits received. Although the Treasury has been informed that those loans have

been utilized by ferroalloy manufacturers, no data has yet been supplied upon which the *ad valorem* benefit received could be calculated.

(4) Regional Industry Tax Incentives—The Government of Brazil provides assistance to firms located in less developed areas of Brazil in the form of tax exemptions for income related to new or expanded facilities in designated areas and reductions in the amount of import duties and IPI taxes levied on imported equipment which is not otherwise produced in Brazil. The regional programs are operated by the Superintendency for the Development of the Northeast (SUDENE) and the Superintendency for the Development of the Amazon (SUDAM).

Eligibility to receive benefits under these programs is not contingent upon the subsequent exportation of the product in question. It has, however, been a consistent Treasury practice under the Act, in determining whether or not a program of assistance to the general production of a product is considered a bounty or grant, to take into account both the extent to which the product manufactured with the benefits of such assistance is exported and the *ad valorem* value of the assists. The Treasury is aware at this stage that at least some firms producing ferroalloys have benefitted from the income tax provisions of these programs although not enough information is presently available to determine either the *ad valorem* size of the benefits received or the extent to which the beneficiary firms export.

(5) Reduction of Withholding Tax on Remittances Abroad—Exporters of manufactured goods may obtain reductions of the withholding tax levied on royalties, technical assistance fees, and interest on foreign loans under Resolution 1189. The amount of reduction varies according to the current export performance of the manufacturer. If utilized, the program would be considered countervailable. No information with regard to its utilization by ferroalloy manufacturers has been supplied.

It is further preliminary determined that the following programs have not been utilized by manufacturers in the Brazilian ferroalloy industry and therefore benefits have not been paid which would constitute the bestowal of bounties or grants within the meaning of section 303 of the Act.

(1) Preferential export financing provided under a number of Brazilian programs including Resolutions 68, 330, and 331. These programs provide financing to exporters at preferential rates for a number of purposes including (a) the defrayal of warehousing costs prior to exportation, (b) financing for exports on consignment, (c) financing provided to foreign buyers of Brazilian goods, (d) financing for loans against foreign exchange contracts or receivables and (e) financing to defray export promotion expenses. No ferroalloy manufacturers/exporters utilized financing under any of the programs during 1978.

(2) Various incentives provided to firms which otherwise contribute to Brazilian development goals administered by the Industrial Development Council (CDI), the Commission for the Granting of Fiscal Benefits to Special Programs (BEFIEX) and the Export Incentives Commission (CIEX). These include (a) the allowance of accelerated depreciation on plants and equipment purchased by qualified firms, (b) the reduction of the withholding tax on excess profits, (c) exemptions of Customs duties and IPI taxes on plant and equipment imported under approved projects and (d) the exemption from all export fees for approved products. In the last five years, no ferroalloy exporter has been declared eligible to receive any of the benefits bestowed by CDI, BEFIEX or CIEX.

Petitioner has also alleged that bounties or grants are bestowed by virtue of the remission of the Brazilian national value added tax (IPI) and state sales taxes upon export. This allegation is separate and distinct from the special IPI credit discussed earlier in this notice which Treasury has preliminary determined constitutes the bestowal of a "bounty or grant," since it involves an excessive remission of the IPI taxes paid. The Treasury has consistently held that the non-excessive remission of indirect taxes directly related to the product upon export is not a bounty or grant. This position was recently upheld by the United States Supreme Court in the *Zenith* decision (437 U.S. 443 (1978)). Therefore, the non-excessive remission of the IPI is *prima facie* not considered to constitute the bestowal of a bounty or grant upon the manufacture, production or exportation of Brazilian ferroalloys.

Accordingly, it is preliminarily determined that bounties or grants, within the meaning of section 303 of the Act are being paid or bestowed upon the manufacture, production, or exportation of certain ferroalloys from Brazil.

Before a final determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to the preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by his office no later than (one month from the date of publication of this notice in the **Federal Register**). Any request for an opportunity to present views orally should accompany such submission and a copy of all submissions should be delivered to any counsel that has heretofore represented any party to these proceedings.

Pursuant to section 303(a)(4) of the Act (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a final determination whether or not any bounty or grant is being paid or bestowed within the meaning of the statute within 12 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. However, under section 102(a)(2) of the Trade Agreements Act of 1979 (P.L. 96–39, 93 Stat. 144), a final determination shall be made within 75 days of the coming into force of the law on January 1, 1980. Therefore, if a final determination in this case is not issued before December 31, 1979, it will be made no later than March 17, 1980.

The preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

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 § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

**David R. Brennan,**

*Acting General Counsel of the Treasury.*

September 18, 1979.

[FR Doc. 79-29707 Filed 9-24-79; 8:45 am]

BILLING CODE 4810-22-M

## Fiscal Service

**[Dept. Circ. 570, 1979 Rev., Supp. No. 5]**

### Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $328,000 has been established for the company.

*Name of Company, Business Address, and State In Which Incorporated*

Antilles Insurance Company, P.O. Box 3507, Old San Juan, Puerto Rico 00904.

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 as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: September 13, 1979.

D. A. Pagliai,

*Commissioner, Bureau of Government Financial Operations.*

[FR Doc. 79-29703 Filed 9-24-79; 8:45 am]

BILLING CODE 4810-35-M

## INTERSTATE COMMERCE COMMISSION

[Notice No. 133]

### Assignment of Hearings

September 19, 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 30844 (Sub-624F), Kroblin Refrigerated Xpress, Inc., transferred to Modified Procedure.

MC 134501 (Sub-34F), Incorporated Carriers, LTD, transferred to Modified Procedure.

MC 95540 (Sub-1061F), Watkins Motor Lines, Inc., now assigned for hearing on October 29, 1979 (2 days), at Atlanta, GA, and will be held in the Courtroom 212, North Fulton County Government Annex Building, 7741 Roswell Road, Roswell (Sandy Springs), GA, North Atlanta Suburb.

MC 115496 (Sub-115F), Lumber Transport, Inc., now assigned for hearing on October 31, 1979 (3 days), at Atlanta, GA, and will be held in the Courtroom 212, North Fulton County Government Annex Building, 7741 Roswell Road, Roswell (Sandy Springs), GA, North Atlanta Suburb.

MC-C-8619, Transport of New Jersey; Asbury Park-New York Transit Corporation; Decamp Bus Lines; Hudson Bus Transportation Company; Hudson Transit Lines, Inc.; Lakeland Bus Lines, Inc., Maplewood Equipment Company; New York Keansburg-Long Branch Bus Company, Inc.; North Boulevard Transportation Company, Somerset Bus Company, Inc.; Suburban Transit Corporation, and Port Authority, now being assigned for continued Prehearing Conference on October 30, 1979 at New York, NY.

MC 134906, Cape Air Freights, Inc. and No. MC 134906 (Sub-1, 2, 3, 4, 5, 6 & 7) Cape Air Freights, Inc., now assigned for hearing on October 10, 1979 will be held at locations as follows: Room 1052A, Federal Building, Federal Plaza, Louisville, KY, October 15 & 17, 1979, at 1220 Everett McKinley Dirksen Bldg., 219 South Dearborn Street, Chicago, IL and October 16, 18 & 19, 1979 at Room 280, Everett McKinley Dirksen Bldg., 219 South Dearborn Street, Chicago, IL.

MC 133937 (Sub-28F), Carolina Cartage Company, Inc., now assigned for hearing on September 25–28, 1979 will be held at locations as follows: Room No. 215, U.S. Post Office & Court House, Corner of West Trade and Mint Street, Charlotte, NC and October 1–4, 1979 at Airport Inn, Douglas Municipal Airport, Charlotte, NC.

AB–7 (Sub. 86F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment-Portions of Pacific Coast Extension in Montana Idaho, Washington & Oregon, AB–7 (Sub. 64F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Discontinuance and Abandonment Between East Spokane, WA, and Metaline Falls, WA, AB–7 (Sub. 69F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Winifred Junction, MT and Winifred, MT, AB–7 (Sub. 78F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Fairfield, MT, and Agawam, MT, now assigned for hearing on September 10, 1979 (5 days), at Butte, MT, and will be held at the Ramada Inn, 2900 Harrison Street.

AB–7 (Sub. 86F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment-Portions of Pacific Coast Extension in Montana Idaho, Washington & Oregon, AB–7 (Sub. 64F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Discontinuance and Abandonment Between East Spokane, WA, and Metaline Falls, WA, AB–7 (Sub. 69F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Winifred Junction, MT and Winifred, MT, No. AB–7 (Sub. 78F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between fairfield, MT, and Agawam, MT, now assigned for hearing on September 24, 1979 (5 days), at Chicago, IL, and will be held at the West Auditorium, Social Security Building, 600 West Madison.

AB–7 (Sub. 86F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment-Portions of Pacific Coast Extension in Montana, Idaho, Washington & Oregon, AB–7 (Sub. 64F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Discontinuance and Abandonment Between East Spokane, WA, and Metaline Falls, WA, AB–7 (Sub. 69F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Winifred Junction, MT and Winifred, MT, AB–7 (Sub. 78F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Fairfield, MT, and Agawam, MT, now assigned for on October 15, 1979 (10 days), at Chicago, IL and will be held at the West Auditorium, Social Security Building, 600 West Madison.

AB–7 (Sub. 86F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment-Portions of Pacific Coast Extension in Montana, Idaho, Washington & Oregon, AB–7 (Sub. 64F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Discontinuance and Abandonment Between East Spokane, WA, and Metaline Falls, WA, AB–7 (Sub. 69F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Winifred Junction, MT and Winifred, MT, of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Fairfield, MT, and Agawam, MT, now assigned for on October 2, 1979 (4 days), at Butte, MT and will be held at the Ramada Inn, 2900 Harrison Street.

AB–7 (Sub. 86F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment-Portions of Pacific Coast Extension in Montana, Idaho, Washington & Oregon, AB–7 (Sub. 64F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Discontinuance and Abandonment Between East Spokane, WA, and Metaline Falls, WA, AB–7 (Sub. 69F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Winifred Junction, MT and Winifred, MT, AB–7 (Sub. 78F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Fairfield, MT, and Agawam, MT, now assigned for hearing on October 2, 1979 (4 days), at Seattle, WA, and will be held at the New Federal Building, Room 514, 915 Second Avenue.

AB–7 (Sub. 86F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment-Portions of Pacific Coast Extension in Montana, Idaho, Washington & Oregon, No. AB–7 (Sub. 64F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Discontinuance and Abandonment Between East Spokane, WA, and Metaline Falls, WA, No. AB–7 (Sub. 69F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Winifred Junction, MT and Winifred, MT, AB–7 (Sub. 78F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Fairfield, MT, and Agawam, MT, now assigned for hearing on October 2, 1979 (4 days), at Spokane, WA and will be held at the U.S. Court House, West 920 Riverside.

AB–7 (Sub. 86F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment-Portions of Pacific Coast Extension in Montana, Idaho, Washington & Oregon, No. AB–7 (Sub. 64F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Discontinuance and Abandonment Between East Spokane, WA, and Metaline Falls, WA, No. AB–7 (Sub. 69F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Winifred Junction, MT and Winifred, MT, AB–7 (Sub. 78F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Fairfield, MT, and Agawam, MT, now assigned for hearing on October 9, 1979 (4 days), at Missoula, MT and will be held at the City Council Chambers, City Hall, 201 W. Spruce Street.

AB–7 (Sub. 86F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment-Portions of Pacific Coast Extension in Montana, Idaho, Washington & Oregon, AB–7 (Sub. 64F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between East Spokane, WA, and Metaline Falls, WA, AB–7 (Sub. 69F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Winifred Junction, MT and Winifred, MT, AB–7 (Sub. 78F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Fairfield, MT, and Agawam, MT, now assigned for hearing on October 9, 1979 (4 days), at Great Falls, MT, and will be held at the City Commission Chambers, Civic Center Building, Park Drive.

AB–7 (Sub. 86F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment-Portions of Pacific Coast Extension in Montana, Idaho, Washington & Oregon, AB–7 (Sub. 64F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Discontinuance and Abandonment Between East Spokane, WA, and Metaline Falls, WA, AB–7 (Sub. 69F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Winifred Junction, MT and Winifred, MT, AB–7 (Sub. 78F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment Between Fairfield, MT, and Agawam, MT, now assigned for hearing on October 9, 1979 (4 days), at Moses Lake, WA, and will be held at the Grant County Public Utility District, 312 West 3rd Avenue.

AB–7 (Sub. 86F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Abandonment-Portions of Pacific Coast Extension in Montana, Idaho, Washington & Oregon, AB–7 (Sub. 64F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company-Discontinuance and Abandonment Between East Spokane, WA, and Metaline Falls, WA.

MC 64832 (Sub-7F), Magnolia Truck Line, Inc., now being assigned for hearing on October 30, 1979 (9 Days), at Memphis, TN. in a hearing room to be designated later.

MC 143521 (Sub-1F), Twehous Excavating Company, Inc., now assigned for hearing on September 20, 1979, at St. Louis, MO. is postponed indefinitely.

MC 124606 (Sub-6F), Ford Truck Line, Inc., now being assigned for hearing on November 27, 1979 (9 Days), at Jackson, MS. in a hearing room to be designated later.

MC 133932 (Sub-2F), Catawba Valley Motor Line, Inc., now being assigned for hearing on November 28, 1979 (3 Days), at Charlotte, NC. in a hearing room to be designated later.

MC 93649 (Sub-23F), Gaines Motor Lines, Inc., now being assigned for hearing on December 3, 1979 (5 Days), at Charlotte, NC. in a hearing room to be designated later.

MC 31389 (Sub-271F), McLean Trucking Company, now assigned for hearing on October 15, 1979 at Chicago, IL. is canceled and transferred to Modified Procedure.

MC 139495 (Sub-410F), National Carriers, Inc., transferred to Modified Procedure.

MC 145838 (Sub-1F), Ohio Container Service, Inc., now assigned for hearing on October 3, 1979 at Cleveland, OH. will be held at the Lakewood Center North Building, Room No. 604, 14600 Detroit Avenue, Lakewood, OH.

MC 72423 (Sub-7F), Platte Valley Freightways, Inc., now assigned for hearing on October 29, 1979 at Denver, CO. will be held at the U.S. Court of Appeals, Division 2, 1929 Stout Street, Denver, CO.

MC 60012 (Sub-99F), Rio Grande Motor Way, Inc., now assigned for hearing on October 9, 1979 at Salt Lake City, UT. will be held at the Federal Building, Room No. 3421, 125 South State Street, Salt Lake City, UT.

MC–F–13805, General Movers-Purchase–Fasgo Motor Express, Inc., Lyons Transportation Lines, Inc.-Control-General Movers, Inc., and MC 120879 (Sub-4F), General Movers, Inc., now assigned for hearing on October 30, 1979 at St. Louis, MO. will be held at the U.S. Court & Custom House, Court Room 3, 1114 Market, Room 516, St. Louis, MO.

MC 135797 (Sub-175F), J. B. Hunt Transport, Inc., now assigned for hearing on November 1, 1979 at St. Louis, MO. will be held at athe U.S. Court & Custom House, Court Room 3, 1114 Market, Room 516, St. Louis, MO.

MC 145287 (Sub-2F), Nip Kelley Equipment Co., Inc., now assigned for hearing on November 5, 1979 at St. Louis, MO. will be held at the U.S. Court & Custom House, Court Room 3, 1114 Market, Room 516, St. Louis, MO.

MC 75320 (Sub-208F), Campbell Sixty-Six Express, Inc., now assigned for hearing on November 6, 1979 at St. Louis, MO. will be held at the U.S. Court & Custom House, Court Room 3, 1114 Market, Room 516, St. Louis, MO.

MC 116763 (Sub-474F), Carl Subler Trucking, Inc., now assigned for hearing on December 3, 1979 at Milwaukee, WI. is cancelled and transferred to Modified Procedure.

MC 125551 (Sub-13), K & W Trucking Co., Inc., Application Dismissed.

No. MC 65525 (Sub-25F), White Brothers Trucking Company, MC 56270 (Sub-18F), Leicht Transfer & Storage Company and MC 62181 (Sub-13F) now assigned for hearing on October 9, 1979 at MIlwaukee, WI will be held at the Tyrolean Town House, 1657 South 108th Street, West Allis, WI.

MC 145102 (Sub-12F), Freymiller Trucking, Inc., now assigned for hearing on October 30, 1979 at Los Angeles, CA. will be held at the U.S. County Courthouse, 111 North Hill Street, Los Angeles, CA.

MC 14138 (Sub-8F), Heavy Transport, Inc., and MC 14138 (Sub-9F), Heavy Transport, Inc., now assigned for hearing on October 31, 1979 at Los Angeles, CA. will be held at the U.S. County Courthouse, 111 North Hill Street, Los Angeles, CA.

MC 107515 (Sub-1205F), Refrigerated Transport Co., Inc., now assigned for hearing on November 5, 1979 at Los Angeles, CA. will be held at the Marriott Hotel, Century and Airport Blvd., Los Angeles, CA.

MC 129537 (Sub-24F), Reeves Transportation Co., a Florida Corp., now assigned for hearing on October 15, 1979 at Montgomery, AL. will be held at the Aronov Bldg., Room No. 816, 474 South Court Street, Montgomery, AL.

MC 141532 (Sub-35F), Pacific States Transport, Inc., now assigned for hearing on October 16, 1979 at Los Angeles, CA will be held at the U.S. County Courthouse, 111 North Hill Street, Los Angeles, CA.

MC 93186 (Sub-6F), Eudell Watts, III d/b/a Watts Transfer Company, now assigned for hearing on October 30, 1979 at Chicago, IL

will be held at the Everett McKinley Dirksen Building, Room No. 1319, 219 South Dearborn Street, Chicago, IL.

MC 82492 (Sub-221F), Michigan & Nebraska Transit Co., Inc., now assigned for hearing on November 2, 1979 at Chicago, IL will be held at the Everett McKinley Dirksen Building, Room No. 1319, 219 South Dearborn Street, Chicago, IL.

MC F 13803 F, Spector Industries, Inc., d/b/a Spector Freight System-Control-Spector Freight System of Canada Limited, now assigned for hearing on November 5, 1979 at Chicago, IL will be held at the Everett McKinley Dirksen Building, Room No. 1319, 219 South Dearborn Street, Chicago, IL.

MC 146468, Nankin Auto Parts Transport, Inc., now assigned for hearing on November 7, 1979 at Chicago, IL will be held at the Everett McKinley Dirksen Building, Room No. 1319, 219 South Dearborn Street, Chicago, IL.

MC 108119 (Sub-125F), E. L. Murphy Trucking Company, now assigned for hearing on November 9, 1979 at Chicago, IL will be held at the Everett McKinley Dirksen Building, Room No. 1319, 219 South Dearborn Street, Chicago, IL.

MC 114273 (Sub-543F), CRST, Inc., now assigned for hearing on October 15, 1979 (2 days), at Chicago, IL, and will be held in Room 1319 Dirksen Building, 219 South Dearborn Street.

MC 105407 (Sub-17F), Hannibal Quincy Truck Lines, Inc., now assigned for hearing on October 17, 1979 (3 days), at Chicago, IL, and will be held in Room 1319 Dirksen Building, 219 South Dearborn Street.

MC 110988 (Sub-396F), Schneider Tank Lines, Inc., now assigned for hearing on October 23, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 79-29698 Filed 9-24-79; 8:45 am]

BILLING CODE 7035-01-M

## Motor Carrier Board Transfer Proceedings

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission on or before October 25, 1979. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

Agatha L. Mergenovich,

*Secretary.*

MC FC-78226 filed June 26, 1979. Transferee: ROAD BUILDERS TRANSPORT, INC., P.O. Box 10431, Winston-Salem, NC 27108. Transferor: Carolina Motor Express, Inc., same address as transferee. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought for purchase by transferee of all the operating authority held by transferor, as set forth in Certificates No. MC 32632 and Subs 10, 16, and 19, issued February 2, 1950, March 7, 1950, March 17, 1955, and April 2, 1973. In Certificate No. MC 32632, the transportation of numerous named commodities is authorized from and to named points in NC, MD, PA, VA, DE, DC; in Certificate No. MC 32632 Sub. 10, numerous named commodities are authorized from and to named points in SC, NC, VA, MD, PA, NJ, and NY; in MC 32632 Sub 16, the transportation of clay products and shale products, from points in Chatham County, NC, to points in a portion of VA is authorized; and in No. MC-32632 Sub 19, brick from Ita, NC, to Hampton, Newport News, Portsmouth, and Williamsburg, VA, is authorized. Transferee holds authority under MC-139522. Transferee and transferor are affiliated companies. An application seeking temporary lease authority has not been filed.

MC FC-78119 filed April 9, 1979. Transferee: BILL RACKLEY TRUCKING INCORPORATED, 3755 Munford Ave., Stockton, CA 95206. Transferor: Senna Trucking Co., Inc., 5022 Seaview Ave., Castro Valley, CA 94546. Representative: Raymond A. Greene, Jr., 100 Pine St., Suite 2550, San Francisco, CA 94111. Authority sought for purchase by transferee of operating rights of transferor in Certificate MC 111313, issued September 3, 1974, authorizing lumber, from San Francisco, CA, to Salinas, Soledad, Watsonville, and Hollister, CA, and points in Santa Clara County, CA, and between points in San Francisco, Alameda, San Mateo, and Marin Counties, CA; and machinery, equipment, material and supplies, and pipe, incidental to or used in construction operations, from San Francisco and Oakland, CA, to points in a portion of CA; and in Certificate of Registration MC 111313 Sub 1, issued June 20, 1975, authorizing certain specified commodities between points in the San Francisco and Los Angeles Territories. Transferee holds no authority from the Commission. Temporary authority has not been sought.

[FR Doc. 79-29699 Filed 9-24-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket AB 2 Sub (21F)]

## Louisville & Nashville Railroad Co., Abandonment in Memphis, Shelby County, Tenn.; Findings

*Correction*

In FR Doc. 79-24987, published on Monday, August 20, 1979, at page 48841, the agency's Docket No. was inadvertently omitted. "[Docket No. AB 2 Sub (21F)]" should be added before the heading of the document.

BILLING CODE 1505-01-M

# Sunshine Act Meetings

Federal Register
Vol. 44, No. 187
Tuesday, September 25, 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

**[M–246, Amdt. 5; Sept. 21, 1979]**

**CIVIL AERONAUTICS BOARD.**

Notice of addition of item to the September 20, 1979, meeting agenda.

**TIME AND DATE:** 9:30 a.m., September 20, 1979.

**PLACE:** Room 1027, 1825 Connecticut Avenue N.W., Washington, D.C. 20428.

**SUBJECT:** 27a. Docket 36535, Petition for Advance Compensation for losses filed by Pioneer Airways, Inc., in providing essential air service at McCook, Kearney, Hastings, and Columbus, Nebraska. (Memo 9146, BDA, OCCR)

**STATUS:** Open 1–36; Closed 37–39.

**PERSON TO CONTACT:** Phyllis T. Kaylor, the Secretary, (202) 673–5068.

**SUPPLEMENTARY INFORMATION:** Item 27a is being added to the September 20, 1979 agenda because without expeditious payment of advance compensation it might reluctantly be forced to suspend its essential air service operations to four points in Nebraska despite the Board's order to continue operations. The carrier's request for prompt action is consistent with the intent of section 324.9 of the Board's rules which establishes procedures for such payments. Therefore, agency business requires the addition of item 27a to the agenda and that no earlier announcement of the addition was possible:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S–1866–79 Filed 9–21–79; 3:03 pm]

**BILLING CODE 6320–01–M**

### 2

**[M–249, Sept. 20, 1979]**

**CIVIL AERONAUTICS BOARD.**

**TIME AND DATE:** 9:30 a.m., September 27, 1979.

**PLACE:** Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

**SUBJECT:**

1. Ratification of Items adopted by notation.
2. Docket 34226, Request for Instructions in the Eastern-National Acquisition Case. (OGC)
3. Dockets 33283 and 33112; Pan American World Airways, Texas International Airlines/National Acquisition Case. (OGC)
4. Docket 33283, Pan American Airlines Application to Amend its voting trust. (OGC)
5. Dockets 33363, 33009, and 33010; *Former Large Irregular Air Service Investigation (Aeronaves de Puerto Rico*—Order on disposing of control and interlocking relationships. (OGC)
6. H.R. 4572, The Public Printing Reorganization Act of 1979. (OGC)
7. National Tourism Policy Act. (Memo 9151, OGC)
8. Docket 34794, Petition for repeal of PR-196, which established procedures for assessing civil penalties in enforcement proceedings. (OGC, BCP)
9. Docket 33465, Continental-Western Merger Case, Order denying Western's Motion for Issuance of a Written Decision and dismissing the application. (Memo 9149, OGC)
10. Docket 32294, *U.S.-Bahamas Service Investigation.* (Memo 8972–C, 8972–D, OGC)
11. Docket 33237, California-Arizona Low Fare Route Proceeding—Draft Order on petition for discretionary review. (OGC)
12. Docket 33091, Florida Service Case—Order on discretionary review. (OGC)
13. Dockets 32550, 32551, and 33362; Applications of Jet Fleet Corporation, Inc., *Former Large Irregular Air Service Investigation.* (OGC)
14. Docket 32293, Northeast Points-Puerto Rico/Virgin Islands Service Investigation. (OGC)
15. Dockets 36121, 35372, 35970, 36281, 36279, 35504, 36291, 36287, 36260, 36289, 36147, 36285, 33524, and 36284; *Salt Lake City Show-Cause Proceeding.* (Memo 8412–K, BDA)
16. Dockets 36354 and 36480; Republic's and USAir's requests for Chicago-Nashville authority. (Memo 9148, BDA, OGC, BLJ)
17. Dockets 35991, 36214, and 36221; Application of Braniff, Application of USAir (formerly Allegheny Airlines) for Los Angeles-Kansas City and Los Angeles-San Diego Nonstop Authority & Western's Application for Los Angeles-Kansas City Nonstop Authority. (BDA)
18. Docket 36188, Application of TWA for certificate authority under Subpart Q. (BDA)
19. Dockets 35914 and 35989, Century Air Freight, Inc., and Alaska International Air, Inc.—Certification as section 418 all-cargo air carriers. (BDA, OGC)
20. Docket 34832, Interim essential air service at Crescent City, California. (BDA, OCCR)
21. Dockets 34513, 26681, and 34565; Petition of the Port of Astoria for determination of essential air transportation at Astoria/Seaside, Oregon; Petition of Hughes Air Corp., d.b.a. Hughes Airwest for modification of orders granting temporary suspension authority; Notice of Hughes Air Corp., d.b.a. Hughes Airwest of intention to terminate service at Astoria/Seaside, Oregon. (BDA)
22. Dockets 36445 and 36538, Air Pacific's notice of intent to suspend service at Chico, California. (BDA, OCCR)
23. Dockets 36456, 36493, and 36509; 30-day notice of Air Illinois of intent to terminate service at Kirksville, MO; 90- and 60-day notices of Ozark Air Lines of intent to terminate service at Kirksville. (BDA, OCCR)
24. Dockets 34751, 35545, and 34977; Piedmont's notice of intent to suspend service at Danville, Virginia; Piedmont's Petition for Reconsideration 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)
25. Dockets 36429 and 36430; Apollo Airways' Notice and Exemption Request to Suspend Service at Santa Maria effective October 1, 1979. (BDA, OCCR)
26. Docket 36277, Delta's Request for Board Disclaimer of Jurisdiction or Alternatively Notice of Intent to Terminate Service at Oakland and San Jose, California. (BDA)
27. Dockets 36227 and 35694, TXI's 90-day notice of intent to suspend service at Roswell, New Mexico; Air Midwest's notice to reinstitute service at Clovis and increase frequencies at Roswell. (BDA)
28. Dockets 36508 and 36547, 30-day notice of Air Illinois of intent to terminate air transportation at Jonesboro and El Dorado/Camden, Arkansas, and Natchez, Greenville, and Jackson/Vicksburg, Mississippi; 90-day notice of Texas International of intent to terminate its certificate obligations at Jonesboro and El Dorado/Camden. (BDA)
29. Dockets 35893, 36005, 36020, 36024, 36031, 36033, 36035, 36036, 36049, 36052, 36054, and 36057; *Boston/Philadelphia/Washington-Orlando Show-Cause Proceeding.* (Boston Portion) (Memo 8927-A, BDA, BIA, OGC)

30. Docket 35283, Application of Ranger Lake Helicopters Limited for an initial foreign air carrier permit to operate charters between Canada and the United States using small aircraft. (Memo 9142, BIA, OGC, BLJ)

**STATUS:** Open.

**PERSON TO CONTACT:** Phyllis T. Kaylor, the Secretary, (202) 673–5068.

[S–1867–79 Filed 9–21–79; 3:03 pm]

BILLING CODE 6320–01–M

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3

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.**

**TIME AND DATE:** 9:30 a.m. to noon and 2 p.m. to adjournment Tuesday, September 25, 1979.

**PLACE:** Commission Conference Room, 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street N.W., Washington, D.C. 20506.

**MATTERS TO BE CONSIDERED:**

**Open to the Public**

1. Proposed withdrawal of the 706 Agency Designation of the Omaha (Nebraska) Human Relations Department.
2. De-Obligation of the Omaha (Neb.) Human Relations Department's FY–79 Backlog Charge Resolution and FY–80 New Charge Resolution Funding; (2) De-Obligation of the Oklahoma Human Rights Commission's FY–80 Backlog Charge Resolution Funding; (3) Obligation of FY–79 Backlog Charge Resolution Funding to the Oklahoma Commission.
3. Request for extension of law professor program to conduct hearings on Federal Sector complaint of discrimination.
4. Twenty-six proposed sole source contracts for professional services in connection with court cases.
5. Freedom of Information Act Appeal No. 79–7–FOIA–229 concerning a request for notes taken by a Commission employee during fact finding conference.
6. Proposed questionnaire requesting information on the impact of Federal employment opportunity programs and activities, to be sent to employers.
7. Draft Memorandum of Understanding between EEOC and the Federal Energy Regulatory Commission.
8. Federal Aviation Administration's proposed EEO regulations for Airports.
9. Purchase of design services in conjunction with alterations of Columbia Plaza Office Building.
10. Purchase of systems furniture in conjunction with alterations of Columbia Plaza Office Building.
11. Purchase of accessories in conjunction with alterations of Columbia Plaza Office Building.
12. Request for authorization to expend funds for alterations at Columbia Plaza Office Building.
13. Report on Commission Operations by the Executive Director.

**Closed to the Public**

1. Litigation authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634–6748.

This Notice Issued September 19, 1979.

[S–1868–79 Filed 9–21–79; 3:30 p.m.]

BILLING CODE 6570–06–M

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4

**FEDERAL ENERGY REGULATORY COMMISSION.**

**TIME AND DATE:** September 26, 1979, 10:00 a.m.

**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. Plumb, Secretary. Telephone (202) 357–8400.

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—340th Meeting, September 26, 1979, Regular Meeting (10:00 a.m.)**

CAP–1. Docket No. E–8855, Boston Edison Co.
CAP–2. Docket No. E–8570, Southern California Edison Co.
CAP–3. Docket No. ER79–324, Public Service Co. of Indiana, Inc.
CAP–4. Docket No. ES79–55, Idaho Power Co.

**Miscellaneous Agenda—340th Meeting, September 26, 1979, Regular Meeting**

CAM–1. Docket No. RO 79–11, Howell Drilling, Inc., Docket No. RO79–12, Frank Michaux, Docket No. RO79–13, Glenn Martin Heller, Docket No. RA–79–29, Husky Oil Co., Docket No. RA79–30, Young Coal Co.

**Gas Agenda—340th Meeting, September 26, 1979, Regular Meeting**

CAG–1. Docket No. RP74–52 (PGA No. 79–2), Transwestern Pipeline Co.
CAG–2. Docket No. RP72–136 (PGA No. 79–2), Florida Gas Transmission Co.
CAG–3. Docket Nos. RP72–154, RP74–27, RP78–50, and RP79–57, (PGA No. 79–2) (DCA NO. 79–2), Northwest Pipeline Corp.
CAG–4. Docket No. CP79–285, Colorado Interstate Gas Co.
CAG–5. Docket No. RP72–155 and RP79–12 (PGA No. 79–2) (AP No. 79–2), El Paso Natural Gas Co.
CAG–6. Docket No. RP74–61 (PGA 79–2), RP76–10 (PGA 79–2), RP79–53 (LFUTA 79–2) and RP79–54 (LFUTA 79–2) Arkansas Louisiana Gas Co.
CAG–7. Docket No. RP72–122 (PGA 79–2), Colorado Interstate Gas Co.
CAG–8. Docket No. RP74–41 (PGA 79–3 and DCA 79–2), Texas Eastern Transmission Corp.
CAG–9. Docket No. RP71–107, United Gas Pipe Line Co.
CAG–10. Docket No. RP76–136 and RP77–26, Trancontinental Gas Pipe Line Corp.
CAG–11. Docket No. RP75–32, Arkansas Louisiana Gas Co.
CAG–12. Docket Nos. RP71–41, RP72–75, RP74–20, RP74–83, RP75–30, RP75–109, and RP76–84, United Gas Pipe Line Co.
CAG–13. Docket No. RP79–20, Alabama Tennessee Natural Gas Co.
CAG–14. Docket No. OR78–1, Trans Alaska Pipeline System.
CAG–15. Docket Nos. CI75–201, et al., Atlantic Richfield Co., et al.
CAG–16. Docket No. G–14562, Tennessee Gas Pipeline Co., (successor to Tennessee Gas Transmission Co). Docket No. G–13680, Continental Oil Co., Docket No. G–13827, Mobil Oil Corp. (successor to Magnolia Petroleum Co.). Docket No. G–13948, Newmont Oil Co. Docket No. G–19855, Continental Oil Co. Docket No. G–19580, Atlantic Richfield Co. (successor to Atlantic Refining Co.). Docket No. G–19851, Cities Service Co. (successor to Cities Service Oil Co.). Docket No. G–19900, Getty Oil Co. (successor to Tidewater Oil Co.).
CAG–17. Docket No. G–18671, Dorchester Gas Producing Co. Docket No. AR64–1, et al., Area Rate Proceeding, et al., (Hugoton-Anadarko Area).
CAG–18. Docket No. CI77–701, City of Perryton, Tex., Docket No. CI77–799, Falcon Petroleum Co.
CAG–19. Docket No. CI79–512, Exxon Corp.
CAG–20. Docket No. G–5010, et al., Exxon Corp.
CAG–21. Docket No. CI79–4, Chevron U.S.A. Inc.
CAG–22. Docket No. CI77–686, Gulf Oil Corp., Docket No. CI78–777, Ocean Production Co. Docket No. CI76–498, Gulf Oil Corp., Docket No. CI76–742, Champlin Petroleum Co. Docket No. CI78–461, CIG Exploration, Inc. Docket No. CI78–940, American Natural Gas Production Co. Docket No. CI77–825, Marathon Oil Co. Docket No. CI77–540, The Louisiana Land and Exploration Co. Docket Nos. CI79–528 and CI79–530, Amerada Hess Corp. Docket No. CP77–627, Tennessee Gas Pipeline Co, a division of Tenneco, Inc.
CAG–23. FERC Gas Rate Schedule Nos. 10 and 95, Texas Pacific Oil Co. Docket No. GP79–90, Texas Pacific Oil Co., Inc. (Blanket Affidavit Filing of December 6, 1978).
CAG–24. Docket No. TC79–127, Columbia Gas Transmission Corp.
CAG–25. Docket No. RP74–50–1, RP74–50–2, RP74–50–3 and RP74–50–4, Florida Gas Transmission Co. (Basic Magnesia Inc., et al.).
CAG–26. Docket No. CP79–319, Consolidated Gas Supply Corp.
CAG–27. Docket No. CP78–136, Transcontinental Gas Pipe Line Corp.
CAG–28. Docket No. CP77–326, Columbia Gulf Transmission Co.
CAG–29. Docket No. CP79–258, Texas Eastern Transmission Corp.
CAG–30. Docket No. CP78–76, Transcontinental Gas Pipe Line Corp.

CAG–31. Docket No. CP79–408, Columbia Gas Transmission Corp.
CAG–32. Docket No. CP78–433, Michigan Consolidated Gas Co. (Interstate storage Division).

**Power Agenda—340th Meeting, September 26, 1979, Regular Meeting**

*I. Licensed Project Matters*

P–1. Docket No. EL79–1, Metlakatla Indian Community.

*II. Electric Rate Matters*

ER–1. Docket No. ER79–536, Cambridge Light Electric Co.
ER–2. Docket No. ER79–575, Georgia Power Co.
ER–3. Docket No. E–8651, Alabama Power Co.
ER–4. Docket No. E–9578 (Phase I), Texas Power & Light Co.
ER–5. Docket No. E–8264, Maine Public Service Co.
ER–6. Docket No. ER78–342, Florida Power & Light Co.
ER–7. Docket No. ER79–495, Carolina Power & Light Co.
ER–8. Docket Nos. E–6469 and ER76–377, Lockhard Power Co.
ER–9. Docket No. E–7738, Boston Edison Co.
ER–10. Docket No. ID–1424, Edwin I. Hatch.
ER–11. Docket No. ID–1758, Charles T. Fisher III.

**Miscellaneous Agenda—340th Meeting, September 26, 1979, Regular Meeting**

M–1. Role of Council on Wage and Price Stability Guidelines in Commission proceedings.
M–2. Docket No. RM79– , Price Discrimination and anti-competitive effect—substantive rule.
M–3. Price discrimination and anti-competitive effect—procedural rule.
M–4. Docket No. RM79– , Interim rule bona fide offers; right of first refusal.
M–5. Docket No. RM79– , Final rule promulgating subpart I of part 271 concerning § 109 of the Natural Gas Policy Act of 1978.
M–6. Docket No. RM79–62, Final regulations for subparts A, C, D and E of part 274 concerning determinations by jurisdictional agencies under the Natural Gas Policy Act of 1978 and amendment to Section 275.202.
M–7. Docket No. RM79–37, Budget-type applications: Gas supply facilities—amendments to scope of existing Docket No. RM79–43, amendments to Subpart A, Part 157 of the regulations implementing the Natural Gas Act.
M–8. Docket No. RM79–15, Final regulations for the implementation of Section 104 of the Natural Gas Policy Act.
M–9. Docket No. GP79–27, State of North Dakota, § 102 NGPA determination Gulf Oil Corp., State 1–18–3D, Martin Weber, 1–18–1C, Marinenko 1–32–1A, Gloventsky 1–17–4A.
M–10. Docket No. GP79–28, United States Geological Survey (Mid-Continent area), § 108 NGPA determination, Federal 31, No. 1–12 Well API No. 03–071–10126.
M–11. Docket No. GP79–29, State of Ohio, § 103 NGPA determination, Willian F. Hill, Warren Massie No. 3 Well, API, Well No. 34057521935**14.
M–12. Docket No. GP79–49, Geological Survey (New Mexico), § 108 NGPA determinations, Arapahoe Drilling Co. and John E. Schalk, five wells.
M–13. Well category determinations.
M–14. Docket No. GP79– , United States Geological Survey, Albuquerque, New Mexico, Section 108, NGPA determination, El Paso Natural Gas Co., San Juan 27–4, Unit No. 15, 88 wells, USGS Docket No. NM1737–79 and NM1742–79, FERC JD Nos. 16615 and 16621.

**Gas Agenda—340th Meeting, September 26, 1979, Regular Meeting**

*I. Pipeline Rate Matters*

RP–1. Docket No. RP79–75, Gas Research Institute.

*II. Pipeline Certificate Matters*

CP–1. Docket No. RP75–51, Transcontinental Gas Pipe Line Corp.
CP–2. Docket No. CP74–192, Florida Gas Transmission Co.
CP–3. Docket Nos. CP76–313, et al., National Fuel Gas Supply Corp., et al.
CP–4. Docket Nos. CP78–123, et al., Northwest Alaskan Natural Gas Transportation Co.

*III. Producer Matters*

CI–1. Docket No. CI75–277 (show cause), J. G. Stone, Sun Oil Co. and United Gas Pipe Line Co.

**Kenneth F. Plumb,**

*Secretary.*

[S–1861–79 Filed 9–21–79; 8:46 am]
BILLING CODE 6450–01–M

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5

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.**

**TIME AND DATE:** 10 a.m., September 21, 1979.

**PLACE:** Room 600, 1730 K Street, NW., Washington, D.C.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commission will consider and act upon the following:

1. Climax Molybdenum Company, DENV 79–102–M, etc. (Petition for Discretionary Review).
2. Eastern Associated Coal Corp., MORG 75–393, IBMA 76–55.
3. Pontiki Coal Corporation, PIKE 78–420–P.

**CONTACT PERSON FOR MORE INFORMATION:** Jean Ellen, 202–653–5632.

[S–1863–79 Filed 9–21–79; 10:31 am]
BILLING CODE 6820–12–M

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6

**BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.**

**TIME AND DATE:** 11 a.m., Friday, September 28, 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. Issues related to employee compensation.
3. Board's parking program.
4. Any agenda items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: September 20, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[S–1862–79 Filed 9–21–79; 10:31 am]
BILLING CODE 6210–01–M

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7

**NATIONAL TRANSPORTATION SAFETY BOARD.**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 44 FR 54613, September 20, 1979.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** Thursday, September 27, 1979, 9 a.m. [NM–79–33].

**CHANGE IN MEETING:** A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. *Pipeline Accident Report*—Philadelphia Gas Works, gas pipeline rupture, explosion and fire, Philadelphia, Pennsylvania, May 11, 1979, and *Recommendation* to American Gas Association.
2. *Marine Accident Report*—Collision of the American Containership SS *Sea-Land Venture* with the Danish Tanker M/T *Nelly Maerky* in the Inner Bar Channel, Galveston, Texas, August 27, 1978, and *Recommendations* to the U.S. Coast Guard, Galvestion-Texas City Pilots Association, and the Houston Pilots Association.
3. *Aircraft Accident Report*—New York Airways, Inc., Sikorsky S–61L, N681PA, Newark, New Jersey, April 18, 1979.
4. *Recommendation* to the Federal Aviation Adminsitration re passenger emergency brace position.
5. *Special Study*—Shoulder Harnesses in General Aviation Safety.
6. *Recommendation* to the Federal Aviation Administration re flight operations in Alaska.

**CONTACT PERSON FOR MORE INFORMATION:** Sharon Flemming, 202–472–6022.

September 21, 1979.

[S–1870–79 Filed 9–21–79; 3:37 pm]
BILLING CODE 4910–58–M

8

**NATIONAL TRANSPORTATION SAFETY BOARD.**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 44 FR 54613, September 20, 1979.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** Friday, September 28, 1979, 9 a.m.[NM–79–34].

**CHANGE IN MEETING:** A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. *Safety Effectiveness Evaluation* of the National Highway Traffic Safety Administration's Rulemaking Process, Volume II: Case History of Federal Motor Vehicle Safety Standard 208: Occupant Crash Protection.
2. *Special Investigation Report*—Survival in Hazardous Materials Accidents.
3. *Safety Report* on Progress Toward Improvements in Pipeline Transportation of Highly Volatile Liquids.

**CONTACT PERSON FOR MORE INFORMATION:** Sharon Flemming, 202–472–6022.

September 21, 1979.

[S-1871-79 Filed 9-21-79; 3:37 pm]

BILLING CODE 4910-58-M

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9

**NUCLEAR REGULATORY COMMISSION.**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 44 FR 54115.

**TIME AND DATE:** Thursday, September 20, 1979.

**PLACE:** Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

**STATUS:** Open and closed (changes).

**CHANGES IN THE MEETING:** 1:30 p.m. Briefing on licensing schedules and staff impacts (Approximately 1 hour; public meeting) is postponed; replaced by continuation of briefing on NFS-Erwin (approximate 1 hour, closed—Ex. 1) continued from 9/18/79.

**CONTACT PERSON FOR MORE INFORMATION:** Roger Tweed, 202–634–1410.

Dated: September 20, 1979.

Roger M. Tweed,

*Office of the Secretary.*

[S-1864-79 Filed 9-21-79; 11:16 am]

BILLING CODE 7590-01-M

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10

**NUCLEAR REGULATORY COMMISSION.**

**TIME AND DATE:** September 27 and 28, 1979.

**PLACE:** Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

**STATUS:** Open and closed.

**MATTERS TO BE CONSIDERED:**

**Thursday, September 27; 9:30 a.m.**

1. Discussion of proceeding to assess Commission confidence in safe disposal of nuclear wastes (approximately 1½ hours, public meeting).
2. Affirmation session (approximately 10 minutes, public meeting) (items are tentative):
   a. Amendments to Parts 2 and 50 on Antitrust Information;
   b. Review of ALAB–531 (Portland General Electric);
   c. Amendment to Part 71.
3. Briefing on CEQ–NEPA Regulations (approximately 1 hour, public meeting).

**Thursday, September 27; 1:30 p.m.**

1. INFCE status briefing (approximately 1½ hours, closed—exemption 1).
2. Discussion of personnel matter (approximately 2 hours, closed—exemption 6).

**Friday, September 28; 10 a.m.**

1. Discussion of procedures for Commission review of license applications (approximately 1 hour, public meeting).

**CONTACT PERSON FOR MORE INFORMATION:** Roger Tweed (202) 634–1410.

Dated: September 20, 1979.

Roger M. Tweed,

*Office of the Secretary.*

[S-1865-79 Filed 9-21-79; 11:16 am]

BILLING CODE 7590-01-M

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11

**UNITED STATES PAROLE COMMISSION:** National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

**TIME AND DATE:** Tuesday, September 25, 1979, at 9:30 a.m.

**PLACE:** Room 828, 320 First Street, N.W., Washington, D.C. 20537.

**STATUS:** Closed pursuant to a vote to be taken at the beginning of the meeting.

**MATTERS TO BE CONSIDERED:** Referrals from Regional Commissioners of approximately 17 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

**CONTACT PERSON FOR MORE INFORMATION:** A. Ronald Peterson, Analyst, (202) 724–3094.

[S-1859-79 Filed 9-20-79; 4:13 pm]

BILLING CODE 4410-01-M

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12

**POSTAL SERVICE BOARD OF GOVERNORS.**

*Notice of Meeting*

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 9 a.m. on Tuesday, October 2, 1979, in Room 112/114, Administration Building, Main Post Office, 3600 Aolele Street, Honolulu, Hawaii 96819. The meeting is open to the public. The Board expects to discuss the matters stated in the Agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

**Agenda**

1. Minutes of the previous meeting.
2. Remarks of the Postmaster General. (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of the miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Proposed modification of "Annual Agenda Calendar". (The Board will discuss possible modification to the Annual Schedule for certain topics to be included in the agenda for the monthly meetings of the Board.)
4. Special report on Christmas mail preparations. (Mr. Conway, Deputy Postmaster General, will report on Postal Service preparations for the Christmas mailing season.)
5. a. Report of the Regional Postmaster General. (Mr. Morris, Regional Postmaster General, will report on postal conditions in the Western Region.)
5. b. Briefing by the District Manager/Postmaster. (Mr. Chee, District Manager/Postmaster, will brief the Board on postal performance in Hawaii.)
6. Postal Rate Commission Budget for FY 1980. (Under the Postal Reorganization Act, the Postal Rate Commission periodically prepares and submits to the Postal Service a budget of the Commission's expenses. The budget is to be considered approved as submitted if the Governors of the Postal Service do not act to adjust it by unanimous written decision. This matter is included on the agenda to give the Governors an

opportunity to act on the Commission's budget.)

7. Review of Capital Investment Program. (Mr. Biglin, Senior Assistant Postmaster General, Administration Group, will review the general status and accomplishments under the Postal Service's Capital Investment Program.)

7. Capital Investment Projects: (a) Additional funding for new General Mail Facility at Scranton, Pennsylvania, (b) procurement of 317 mini computers for computerized markup of mail to be forwarded, (c) purchase of existing postal leased buildings at Omaha, Harrisburg, Buffalo, Grand Rapids, and Philadelphia. (Mr. Biglin will present these proposed capital investment projects.)

**Louis A. Cox,**

*Secretary.*

[S-1869-79 Filed 9-21-79; 3:30 pm]

BILLING CODE 7710-12-M

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13

**SECURITIES AND EXCHANGE COMMISSION.**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 44 FR 53348, to be published September 13, 1979.

**STATUS:** Closed meetings.

**PLACE:** Room 825, 500 North Capitol Street, Washington, D.C.

**DATE PREVIOUSLY ANNOUNCED:** Monday, September 10, 1979 and Monday, September 17, 1979.

**CHANGES IN THE MEETING:** Deletion.

The following additional item will not be considered at a closed meeting scheduled for Wednesday, September 19, 1979, at 10:00 a.m.: Regulatory matter bearing enforcement implication.

Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George Yearsich (202) 272-2178.

September 20, 1979.

[S-1860-79 Filed 9-21-79; 8:46 am]

BILLING CODE 8010-01-M

federal register

Tuesday
September 25, 1979

Part II

# Department of Labor

## Occupational Safety and Health Administration

## Electrical Standards; Proposed Rulemaking

**DEPARTMENT OF LABOR**

**Occupational Safety and Health Administration**

**[29 CFR Part 1910]**

**[Docket No. S108-1]**

## Electrical Standards; Proposed Rulemaking

**AGENCY:** Occupational Safety and Health Administration, Department of Labor.

**ACTION:** Proposed rulemaking.

**SUMMARY:** This proposes the amendment of the electrical safety standards in Subpart S of Part 1910. The proposed revision is intended to simplify, clarify, and update those standards. Additionally, the proposal places relevant requirements of the National Electrical Code (NEC) into the text of the regulations, making it unnecessary for employers to refer to the NEC to determine their obligations and unnecessary to continue to incorporate the NEC by reference. The resultant simplification is reflected in the fact that the proposed standard contains less than 10% of the words contained in the currently incorporated NEC.

**DATES:** Written comments on these proposed rules must be postmarked by November 30, 1979. A public meeting will be held on November 8, 1979. Persons wishing to speak at the meeting should notify OSHA by November 1, 1979. Objections and requests for a hearing must be postmarked by November 30, 1979.

**ADDRESS:** All comments, objections and hearing requests should be sent to Docket Officer; Docket S108–1; Rm. S–6212; U.S. Department of Labor; 200 Constitution Avenue, NW.; Washington, D.C. 20210. The public meeting will be held in Room C–5521, Seminar Room #4, Department of Labor, 200 Constitution Avenue, NW., in Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Mr. Sil Patti; Office of Electrical and Electronic Engineering Safety Standards: OSHA; Rm. N3510; 200 Constitution Avenue, NW.; Washington, D.C. 20210. (202–523–7207).

**SUPPLEMENTARY INFORMATION:**

### I. Background

*(1) Safety Problems of Electric Shock*

It is well known that the human body will conduct electricity, and that if direct body contact is made with an electrically energized part while a similar contact is made simultaneously with another conductive surface which is maintained at a different electrical potential, a current will flow, entering the body at one contact point, traversing the body and then exiting at the other contact point, usually the ground. Each year many workers suffer pain, injuries and death from such electric shocks and throughout the past decade the National Center for Health Statistics has reported approximately 1000 accidental electrocutions annually in the United States with about a fourth being industry and farm related.

The effects that electric shock will have on an individual will depend upon the type of circuit, its voltage, resistance, amperage, pathway through the body and the duration of the contact. For example, electric shocks produced by alternating currents of powerline frequency (normally 60 Hertz) passing through the body from hand to foot for an average adult worker for one second can cause various effects on the body. Such effects range from a condition of being barely perceptible at 1 milliampere to involuntary muscular control from 9 to 25 milliamperes. The passage of still higher currents can produce ventricular fibrillation of the heart (cessation of rhythmic pumping action) from 75 milliamperes to 4 amperes and finally immediate cardiac arrest at over 4 amperes. Nearly instantaneous fatalities from electric shock can result from either direct paralysis of the respiratory system (at 20 milliamperes or more), failure of the heart to pump due to ventricular fibrillation (at 75 milliamperes or more), or immediate and complete heart stoppage (at 4 amperes or more). Even if the shocking current does not pass through vital organs or nerve centers, severe injuries such as deep internal burns can still occur. In some cases, injuries caused by electric shock can be a contributory cause of delayed fatalities.

Burns suffered in electrical accidents are of great concern. These burns may be of three basic types, electrical burns, arc burns and thermal contact burns. Electrical burns are the result of the electric current flowing in the tissues and may be either skin deep or may affect deeper layers (muscles, bones, etc.) or both. Tissue damage is caused by the heat generated from the current flow; if the energy delivered by the electrical shock is high, the body cannot dissipate the heat and the tissue is burned. Typically, such electrical burns are slow to heal. Arc burns, on the other hand are the result of high temperatures in close proximity to the body produced by electric arcs or by explosions. These burns are similar to burns and blisters produced by any high temperature source. Finally, thermal contact burns are those normally experienced from the skin contacting hot surfaces of overheated electrical conductors, conduits, or other energized equipment. All types of burns may be produced simultaneously.

Electrical shock currents, even at levels as low as 3 milliamperes, can also cause injuries of an indirect or secondary nature in which involuntary muscular reaction from the electrical shock can cause bruises, bone fractures and even death resulting from collisions or falls.

*(2) Hazards Associated With Electricity*

Most electrical systems use the earth to establish an electrical voltage reference system with respect to ground. This is done by connecting a portion of the circuit to ground. Since these systems use conductors which have voltages to ground, a shock hazard exists for persons who are in electrical contact with the earth and are exposed to the conductors. If a person comes in contact with an ungrounded conductor while he is in contact with the ground, he becomes part of the circuit and current passes through his body.

In addition to the shock hazard, electricity poses other hazards to employees. For example, when a short circuit occurs or current flow is interrupted, hazards are created from the resultant arcs. If high current is involved, these arcs can cause injury or can start a fire. Fires can also be created by overheating equipment or by conductors carrying too much current. Extremely high-energy arcs can damage equipment causing fragmented metal to fly in all directions. In atmospheres which contain explosive gases or vapors or combustible dusts, even low-energy arcs can cause violent explosions.

*(3) Nature of Electrical Accidents*

Electrical accidents, when initially studied, often appear to be caused by circumstances which are varied and peculiar to the particular incidents involved. However, further consideration usually reveals the underlying cause to be a combination of three possible factors. These consist of work involving unsafe equipment and installations, workplaces made unsafe by the environment, and unsafe work performance.

(a) *Basic Contributory Factors.* Some unsafe electrical equipment and installations can be identified, for example, by the presence of faulty insulation, improper grounding, loose

connections, defective parts, ground faults in equipment or unguarded live parts. The environment can also be a contributory factor to electrical accidents in a number of ways. Some unsafe environments affecting electrical safety would be, for example, atmospheres containing flammable vapors, liquids or gases, areas containing corrosive atmospheres, and wet and damp locations. Finally, some typical unsafe acts can be recognized as, for example, the failure to deenergize electrical equipment when it is being repaired or inspected, the intentional use of obviously defective and unsafe tools, or the use of tools or equipment too close to energized parts. For purposes of convenience, the first and second accident causing situations are sometimes combined and simply referred to as unsafe conditions. Thus, electrical accidents can be generally considered as being caused by unsafe conditions, and unsafe act, or, what is usually the case, a combination of the two. It should also be noted that inadequate maintenance can cause equipment or installations, which were originally considered safe, to deteriorate, resulting in an unsafe condition.

(b) *Typical Accidents from Unsafe Conditions.* Of the two primary causative factors influencing electrical accidents, i.e., unsafe conditions and unsafe acts, the ones involving unsafe conditions are more directly addressed by the provisions of the National Electrical Code. Since the proposed revision of the OSHA electrical safety standards will initially be directed towards minimizing unsafe conditions, a few typical examples of related accidents are given to illustrate these situations.

(i) *California—1972.* A nurseryman was electrocuted when he touched a conduit riser in a greenhouse. The greenhouse was wired with overhead open wiring on insulators. A short section of conduit was installed to enclose conductors feeding down to a time clock. A faulty splice in the clock energized the clock frame and conduit.

(ii) *Florida—1973.* A lead foreman and set-up man for a plastics corporation was installing a new injection molding machine. The employee was electrocuted when he touched a temperature control unit used in conjunction with the molding machine. The temperature control unit had been improperly wired.

(iii) *Hawaii—1971.* An installer of refrigerators for the retail-wholesale trade was electrocuted using an electric drill. While working on top of a prefabricated walk-in unit, the worker was in continuous ground contact when an electrical fault developed in the drill plug and the accident occurred.

(iv) *California—1971.* A worker engaged in electroplating was electrocuted when he touched an ungrounded 9 volt D.C. bus on an electroplating tank while in contact with the grounded tank. It was found that a 120-volt terminal on an A.C. timer coil was installed within ⅛ inch of the D.C. bus. A fault path had developed and a leakage current of 70 milliamperes at 120 volts was measured between the electroplating bus and the grounded tank.

(v) *Florida—1974.* A slag house operator for a slag plant was on a catwalk repairing and replacing guards on belt drives and pulleys. He had gained access to the catwalk by using a wooden ladder, but he descended from the catwalk by means of a power pole erected at the end of the platform. A 440-volt line with deteriorated insulation was anchored to the pole, and metal spikes for climbing and descending had been driven into the pole. As the victim stepped on the first cleat, he grabbed his chest, lost his grip and fell ten feet to the concrete floor. Electric shock was found to be the cause of death.

(vi) *Idaho—1974.* A lubricator working in the molding department of a plastics manufacturing plant was electrocuted. The accident resulted when the worker contacted a nozzle adaptor which was energized on the molding machine.

(vii) *California—1966.* An electrician received flash burns on his face when he closed a large 480-volt switch after replacing a blown fuse. The ceramic insulating block holding one end of the fuse was defective and apparently had originally caused the fuse to blow.

(viii) *California—1972.* A worker was electrocuted when he grasped the metal nozzle of a steam cleaning hose which was metal reinforced. The 120-volt switch in the motor terminal enclosure of the steam cleaning unit had vibrated loose and a terminal was contacting the metal enclosure. The unit was supplied by a three conductor cord; however, the ground prong on the attachment plug had been broken off. Another worker received a severe shock when he attempted to help the first worker.

(ix) *Massachusetts—1970.* A repairman working in an automobile body shop was electrocuted when the portable grinder which he was using developed a short circuit.

(x) *Florida—1973.* A carpenter's helper for a boat manufacturing firm was electrocuted when he plugged the router cord into an extension cord outlet box. Examination of the extension cord outlet box showed the ungrounded conductor had separated from its terminal and was touching the metal box.

While these electrical accident descriptions are typical, it must be emphasized that they only represent those accidents within the category of unsafe conditions.

(c) *Accident References.* Although descriptive accident data was reviewed from a variety of sources, the typical representative data presented herein was taken from the following:

(i) Electrical Work Injuries in California, Department of Industrial Relations, Division of Industrial Safety, State of California, 455 Golden Gate Avenue, San Francisco, CA 94101.

(ii) "Live and Learn" Publication, Department of Labor and Employment Security, Industrial Safety, State of Florida, 1321 Executive Center Drive, East, Tallahassee, Florida 32301.

(iii) Publication of Occupational-Related Electrocutions, Department of Labor and Industrial Relations, State of Hawaii, 825 Mililani Street, Honolulu, Hawaii 96813.

(iv) Industrial Accidents, Industrial Commission, State of Idaho, 317 Main Street, Boise, Idaho 83707.

(v) Department of Labor and Industries, Division of Industrial Safety, Commonwealth of Massachusetts, Leverett Saltonstall Bldg., Government Center, 100 Cambridge Street, Boston, MA 02202.

(4) *Protective Measures and Present Regulations*

There are various ways of protecting employees from the hazards of electric shock, including insulation and guarding of live parts. Insulation provides an electrical barrier to the flow of current. To be effective, the insulation must be appropriate for the voltage, and the insulating material should be clean and dry. Guarding prevents the employee from coming too close to energized parts. It can be in the form of a physical barricade, or it can be provided by installing the live parts out of reach from the working surface. (This technique is known as "guarding by location.")

Grounding is another method of protecting employees from electric shock; however, it is normally a secondary protective measure. To keep guards or enclosures at a common potential with earth, they are connected, by means of a grounding conductor, to ground. If a live part accidentally comes in contact with a grounded enclosure, any current flow is directed back to earth and the circuit protective devices (e.g., fuses and circuit breakers) can interrupt the circuit.

When employees are working with electrical equipment, they must use safe work practices. Such safety-related employee work practices include keeping a prescribed distance from

exposed energized lines, avoiding the use of electrical equipment while wet, and locking-out and tagging equipment which is deenergized for maintenance.

Another important safety practice involves the use of electrical protective devices, such as rubber gloves and rubber mats for purposes of insulation against live parts, or hot sticks for purpose of both insulation and actuation of energized parts from a distance. However, to assure the protection of the employee, this equipment must be properly manufactured and maintained. With some electrical equipment, regular maintenance becomes an important consideration in order to keep the equipment from deteriorating into an unsafe condition.

The regulations presently contained in Subpart S of Part 1910 adopt the 1971 National Electrical Code by reference and set forth definitions with respect to some of the terms used by the NEC. The most widely used code to safeguard people and property from the potential hazards associated with electricity is the National Electrical Code. This code had its beginning prior to the turn of the century when the use of electricity was just starting. At this time, the code serves as the cornerstone of electrical safety in the United States. As such, it provides the basis for electrical safety regulations in over 2000 municipalities throughout all 50 States. Thirty-seven States and the District of Columbia have adopted it as their electrical safety law, and it is enforced by over 12,000 governmental electrical inspectors. This national system provides important assistance to OSHA in its mission to afford electrical safety in the workplace.

*(5) Reasons for Proposed Revision*

Since the National Electrical Code (NEC) NEPA 70–1971 was adopted as a national consensus standard, two revisions of the NEC, which is revised every three years, have occurred, the most recent being the 1978 edition.

Because of the continual process by the National Fire Protection Association (NFPA) of updating the Code, any specific edition which OSHA might adopt, would likely be outdated within a few years. In addition, since the rulemaking process can become somewhat lengthy, a complete revision of the OSHA electrical safety standards every three years to keep pace with the NEC changes, is not practical. To remedy this problem, OSHA's electrical safety standards should accept changes in technology without the need for constant revision any where possible be written in performance terms in order to allow alternative installation methods if they provide comparable safety to the employee.

Another difficulty with the current incorporation of the entire NEC by reference is that the NEC contains many details which are not directly related to employee safety. In addition, a further objective of OSHA in revising the standard is to obtain an improved standard which will provide employee safety and will be easier to use and understand, but will still be comprehensive enough to cover all significant electrical hazards.

Finally, since the NEC is an electrical installation design document, it does not generally contain explicit requirements for electrical safety related work practices, electrical equipment maintenance and safety requirements for special equipment. OSHA, therefore, will also consider the development of regulations in these areas in subsequent rulemaking proceedings.

**II. Summary and Explanation of Proposed Standard**

*(1) General Approach*

In view of the existing constraints and limitations imposed by the continued use of the 1971 version of the NEC, discussed above, OSHA concluded that what is needed is a revised standard tailored to fulfill OSHA's responsibilities and which would extract suitable portions from the NEC and other safety standards applicable to electrical safety.

At the same time, and after discussions with OSHA staff, the NFPA decided that the NEC Correlating Committee, which periodically evaluates the NEC, should examine the feasibility of developing a document to be used as a basis for providing electrical safety in the workplace. NFPA created the "70E Committee" to prepare a consensus standard for possible use by OSHA in developing a proposal for subsequent rulemaking. The 70E Committee visualized a standard consisting of four major parts:

Part I—Installation Safety Requirements,
Part II—Safety Related Work Practices,
Part III—Safety Related Maintenance Requirements,
Part IV—Safety Requirements for Special Equipment.

The name given to this new document became NFPA 70E, "Electrical Safety Requirements for Employee Workplaces."

*(2) Criteria for Part I of NFPA–70E*

The NFPA 70E Committee derived Part I from the 1978 NEC; however, unlike the NEC, this Part is not intended to be applied as a design, installation, modification, or construction standard for an electrical installation or system. Rather, its content has been excerpted from the NEC in order to apply only to electrical utilization systems which are part of the workplace. Although Part I of NFPA 70E is compatible with corresponding provisions of the NEC, it is not intended to be used, nor can it be used, in lieu of the NEC for the design and initial installation of utilization systems and equipment.

Although all of the requirements of the NEC may be related to electrical hazards, for practical purposes of the Committee included in Part I of NFPA 70E those provisions which are most directly associated with employee safety. In determining which provisions should be included in Part I, the following guidelines were used by the 70E Committee.

(a) The provisions should give protection to the employee from electrical hazards.

(b) The provisions should be excerpted from the NEC in a manner that will maintain their intent as they apply to employee safety.

(c) The provisions should be selected and written in a manner that will reduce the need for frequent revision yet avoid technical obsolescence.

(d) Compliance with the provisions should be determinable by means of an inspection during the normal state of employee occupancy without requiring shutdown of the electrical installation or damage to the building or finish.

(e) The provisions should not be encumbered with unnecessary details.

(f) The provisions should be written so as to enhance their understanding by the employer and employee.

(g) The provisions must not add any requirements not found in the NEC, nor may the intent of the NEC be changed even if the wording is changed.

*(3) Source for 70E*

The 1978 edition of the NEC was used as a source document for NFPA 70E instead of the 1971 edition. Part I of 70E therefore, reflects a considerable improvement over the present OSHA standards incorporated in Subpart S. Generally, this improvement may be considered as being one achieved more from the elimination of requirements inappropriate to OSHA's needs rather than from the addition of new requirements. Typical examples of this method of simplification in the preparation of Part I of 70E relate in NEC chapters 3, 4, 6, 7, and 9, as discussed below. Although 70E does contain some additional requirements not contained in the 1971 NEC (as in chapters 6 and 7 of the 1978 NEC), such

new provisions are relatively few in number.

Major deletions and additions, typical of those made in the preparation of 70E, are given in the following paragraphs:

(a) *Principal Deletions.* Chapters 3 and 4 of the 1971 and 1978 NEC deal with wiring methods and materials (Chapter 3) and equipment for general use (Chapter 4). Tables containing various specialized technical information have been deleted in 70E.

Typical topics of these chapters included insulation characteristics, allowable ampacities, electrical box sizes, flexible cord and motor full load currents. This type of information was deleted because if deals with items not directly related to the electrical hazard. For example, the composition of insulation on a conductor was deleted; however, the actual requirement that the conductor be insulated and that the insulation be approved for its intended purpose was retained. These changes result in a standard which is more performance oriented.

Chapter 6 of the 1971 and 1978 NEC describes special equipment requirements. Requirements from this chapter dealing with electrically operated organs and the installation of equipment and wiring used for sound-recording and reproduction have been deleted in 70E because electrical safety for employees is not directly affected by these items. Any hazard to the employee related to this type of equipment would most likely arise in the supply system which will still be covered.

Chapter 7 of the 1971 and 1978 NEC deals with special conditions. All requirements from this chapter involving stand-by power generation systems permanently installed, other than emergency systems, have been deleted. In these situations, primary electrical hazards to the worker are minimal since the effects of power outage are generally limited to product or process damage.

Chapter 9 of the 1971 and 1978 NEC provides a collection of tables containing technical data, together with a number of sample computations. This entire chapter is not included in 70E because it is solely an instructive guide for the design of certain electrical systems.

(b) *Principal Additions.* Chapter 6 of the 1971 NEC which deals with special equipment, has been supplemented by the additional requirements found in the 1978 edition of the NEC. These additions are included in 70E. Specifically, new provisions for workplaces containing electrically driven or controlled irrigation machines and workplaces using electrolytic cells have been added. In the first type of workplace, the related electrical hazard is associated with the presence of an electrically driven or controlled machine, with one or more motors, used primarily to transport and distribute water for agricultural purposes. In the second type of workplace, equipment is installed consisting of electrolytic cells used for the purpose of refining or producing various materials. Such an installation contains electrical hazards because the employee's work is normally performed on or in the vicinity of exposed energized surfaces of the electrolytic cell lines and their attachments. As a consequence, special electrical safety requirements are needed and hence such provisions are included in 70E.

Chapter 7 of the 1971 NEC covers special conditions. An addition contained in the 1978 NEC involves fire protective signaling systems. Inasmuch as the installation of wiring and equipment of fire protective signaling systems, operating at 600 volts or less, has a definite effect on workplace safety, the new provisions have been included in the proposed document.

*(4) New Format for Subpart S*

The need for an uncomplicated and readily understandable standard, sufficiently general to minimize the need for changes, appears to be satisfied by Part I of the NFPA 70E recommendations. OSHA has carefully reviewed the work product of the 70E Committee. This review indicates that its use as a base document for OSHA's design safety standard for electrical utilization systems and equipment is appropriate and offers certain advantages toward achieving a more simplified standard. The significance of this simplification is indicated by the wordage reduction from the approximately 250,000 words in the National Electrical Code to the approximately 15,000 words in the proposed revisions. As a consequence, the presently adopted 1971 NEC (NFPA–70) will no longer be incorporated by reference into the OSHA standard. OSHA also intends to augment the electrical installation safety standards contained in this proposal by establishing additional requirements covering safety related work practices and equipment maintenance through future rulemaking.

Revisions to the electrical safety standards of Subpart S of Part 1910 for purposes of simplification and clarification will not only provide a systematic format to satisfy present requirements but, with coverage of special equipment, will also accommodate future growth. The proposed Subpart S will eventually contain four major parts covering not only the design safety standards for electrical systems contained in this proposal (Part I), but also safety related work practices (Part II), safety related maintenance requirements (Part III), and safety requirements for special equipment (Part IV).

These basic areas, proposed for inclusion in Subpart S of Part 1910, will contain the following:

(a) Design Safety Standards for Electrical Systems. These standards, which are the subject of the current proposal, would be contained in §§ 1910.302 through 1910.330. (At this time, however, only §§ 1910.302 through 1910.308 are being proposed; §§ 1910.309 through 1910.330 are being reserved for possible future design safety standards for other electrical systems.)

(b) Safety Related Work Practices. These regulations would be contained in §§ 1910.331 through 1910.360.

(c) Safety Related Maintenance Requirements. These requirements would be contained in §§ 1910.361 through 1910.380.

(d) Safety Requirements for Special Equipment. These requirements would be contained in §§ 1910.381 through 1910.398.

(e) Definitions applicable to each of these four major divisions would be contained in a common § 1910.399.

Since the areas covered by each of these four major divisions represent broadly diverse equipments, installations and practices, it is intended that each division would be further subdivided where appropriate. For example, within the category involving design safety standards for electrical systems, separate subgroupings could include electrical utilization systems, electrical power generation and transformation systems, electrical power transmission and distribution systems, and others.

The changes proposed for Subpart S in the present document, will be limited to electrical utilization systems, as covered in the existing OSHA electrical standards. The proposed standard will also be accompanied by nonmandatory appendices including explanatory data, reference material, notes, charts and other information as aids to help the employer determine methods of complying with this standard.

The proposal would place the relevant requirements of the National Electrical Code into the text of the regulations making it unnecessary to incorporate the National Electrical Code by reference. The current incorporation of the entire NEC is therefore being proposed for deletion.

Some parts of the present §§ 1910.308 and 1910.309 are proposed either for complete deletion or for modification and incorporation into new sections. Other parts of these sections would be incorporated into new sections without substantive change. The current provisions which remain unchanged or which are subject only to minor editorial changes or redesignation of section numbers, are not at issue in this rulemaking proceeding.

The following discussion summarizes the effects the proposal will have on the existing provisions of §§ 1910.308 and 1910.309:

(a) The introductory paragraphs, § 1910.308(a) and § 1910.308(b), which incorporate the 1971 NEC into Subpart S by reference, would be deleted. A new introductory § 1910.301 would address the new format to be followed in this Subpart.

(b) The provisions currently in the scope paragraph, § 1910.308(c), would be carried forward in new scope paragraph § 1910.302(a), with additional coverage being added in § 1910.302(a)(1)(vi) to include industrial substations which was inadvertently omitted from the present OSHA standard.

(c) Editorial changes would be made in the definitions presently contained in § 1910.308(d), in order to substitute references to Subpart S in place of the current references to the 1971 NEC, wherever such references appear. These non-substantive changes in the definitions would reflect the proposed consolidation of applicable electrical requirements within the body of this subpart. The definitions would then be redesignated as individual paragraphs within the proposed new definitions section, § 1910.399, as follows:

Section 1910.308(d)(1), *Approved*, would be redesignated as paragraph (a)(7) of § 1910.399.

Section 1910.308(d)(2), *Acceptable*, would be redesignated as paragraph (a)(1) of § 1910.399.

Section 1910.308(d)(3)(i), *Listed*, would be redesignated as paragraph (a)(77) of § 1910.399.

Section 1910.308(d)(3)(ii), *Labeled*, would be redesignated as paragraph (a)(75) of § 1910.399.

Section 1910.308(d)(3)(iii), *Accepted*, would be redesignated as paragraph (a)(2) of § 1910.399.

Section 1910.308(d)(3)(iv), *Certified*, would be redesignated as paragraph (a)(22) of § 1910.399.

Section 1910.308(d)(3)(v), *Utilization Equipment*, would be redesignated as paragraph (a)(127) of § 1910.399.

(d) The National Electrical Code requirements currently listed in paragraph § 1910.309(a) would be retained in part and deleted in part. The retained part would no longer reference sections of the NEC, but would instead reference corresponding provisions of this subpart. These requirements would be carried forward as proposed paragraph § 1910.302(b)(1). The deleted portion would consist of the following sections of the 1971 NEC: 110–14(a); 250–3(b); 250–7; 250–43 (a), (b), (c), (d), (e), (f), (g), (h), and (i); 250–44(e); 250–45(c); 250–58 (a) and (b); 250–59 (a), (b), and (c); 422–8; 422–9; 422–10; 422–11; 422–12; 422–14; 422–15 (a), (b), and (c); 422–16; 422–17 (a) and (b); 430–142; and 430–143 which are inappropriate for OSHA's use or otherwise covered in this subpart. Reasons for the specific deletions are as follows:

110–14(a)—Covered by § 1910.303(a).
250–3(b)—Inappropriate; this section is not a requirement but only states that certain systems over 300 volts may be grounded.
250–7—Covered in § 1910.307.
250–43 (a), (b), (c), (d), (e), (f), (g), (h), and (i)—Covered in § 1910.304(f)(5)(iv)
250–44(e)—Inappropriate; applies only to mobile homes and recreational vehicles.
250–45(c)—Inappropriate; applies only to residences.
250–58 (a) and (b)—Inappropriate; these are not requirements but optional methods of meeting the grounding requirement.
250–59 (a), (b) and (c)—Inappropriate; these sections are not requirements but only suggest methods of grounding.
422–8—Covered by § 1910.305(g)(1)(i).
422–9—Covered by § 1910.303(g)(2).
422–10—Covered by § 1910.303(b).
422–11—Inappropriate; this section addresses appliance construction detail requirements.
422–12—Inappropriate; this section addresses appliance construction detail requirements.
422–14—Inappropriate; this section addresses appliance construction detail requirements.
422–15 (a), (b) and (c)—Covered by § 1910.303(a).
422–16—Covered by § 1910.304(f) and the standard procedure for a variance request.
422–17 (a) and (b)—Part (a) is inappropriate; this part is not a requirement but a definition. Part (b) is covered by § 1910.303(a).
430–142—Covered by § 1910.304(f)(5)(iv).
430–143—Covered by § 1910.304(f)(5)(v).

(e) The effective date of March 15, 1972 given in the present paragraph § 1910.309(b) concerning the installation of utilization equipment, including replacement, modification or repair would be carried forward in the new paragraph § 1910.302(b)(2). The reference to the 1971 NEC in this paragraph would be deleted and applicable portions of this subpart would be referenced

(f) The first sentence and the first three words of the second sentence of paragraph § 1910.309(c), which refer to the provisions of the 1971 NEC, would be deleted in accordance with the changes in this subpart. The ground-fault circuit protection requirement contained in the remainder of paragraph § 1910.309(c), as amended (41 FR 55703, December 21, 1976) which remains unchanged would be redesignated as new paragraph § 1910.304(b)(1).

(g) In order to provide the employer and employee with useful, explanatory material to aid in understanding and complying with the standards, OSHA is considering the use of nonmandatory appendices containing such guidelines. Specifically, three appendices are intended and will cover the following: Appendix A will be reserved for general explanatory data and special examples, Appendix B will be reserved for tables, notes and charts, and Appendix C will contain a listing of reference documents. It is emphasized that these appendices would be nonmandatory and are provided for guidance. The information contained in them would not create any additional obligations or detract from any obligations of the standard.

(h) As noted above, sections that are merely redesignated or involve only numerical or editorial changes which are not substantive and would not change the obligations contained in the existing regulations are not subject to comment in this rulemaking.

(i) As in the case with the current provisions of Subpart S, the provisions of this proposal will not apply to construction and agriculture, but will apply to all other workplaces covered by OSHA.

### III. Regulatory Assessment

In accordance with Executive Order No. 12044 (43 FR 12661, March 24, 1978), OSHA has assessed the potential economic impact of this proposal. Based on the economic identification criteria developed by the Department of Labor (44 Fr 5570, January 26, 1979), OSHA has concluded that the subject matter of this proposal is not a "major" action which would necessitate further economic impact evaluation and the preparation of a Regulatory Analysis.

The proposal deals with installation safety and is derived from the National Electrical Code, which is currently in use as an OSHA standard. Since the proposal would result in an overall simplification of the present OSHA standards, the estimated cost of compliance with the proposed part can be assumed not to be higher than the cost of compliance with the current OSHA standards. No reduction in protection will result from the proposed standards.

This determination is based on a May 11, 1979 report, by JRB Associates, Inc. The major finding of the economic

impact assessment is that there would be no significant economic effect resulting from the promulgation of the proposed revisions to 29 CFR Part 1910, Subpart S, Electrical. The rationale for this conclusion is as follows:

—The proposed regulation contains no requirements other than those found in either 29 CFR Part 1910, Subpart S, or the 1978 National Electrical Code.
—Current industry practice for installation is to conform to the current 1978 National Electrical Code.
—Provisions in the proposed Subpart S have an antecedent in the 1978 National Electrical Code.

The regulatory assessment is available for inspection and copying at the U.S. Department of Labor Building, OSHA Docket Office, Room S–6212, 200 Constitution Avenue, N.W., Washington, D.C. 20210. OSHA invites comments concerning the conclusions reached in the economic impact assessment.

## IV. Public Participation

Interested persons are invited to submit written comments on the proposed standard, to participate in a public meeting during the comment period, and to file objections and request a public hearing.

(a) Written data, views, and arguments concerning the proposal must be postmarked on or before November 30, 1979 and submitted in quadruplicate to the Docket Officer, Docket No. S108–1, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Room S–6212, Washington, D.C., 20210. Written submissions must clearly identify the provisions of the proposal which are addressed and the position taken with respect to each issue.

The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be made a part of the record of this proceeding.

(b) To assist interested persons in submitting their written comments and data, OSHA is scheduling a public meeting during the comment period. The meeting will be held on November 8, 1979 in Room C–5521, Seminar Room #4, Department of Labor, 200 Constitution Avenue, N.W., in Washington, D.C. It will begin at 9:00 a.m., will recess from 12 noon to 1 p.m. and will continue until 5 p.m.

The public meeting is intended as an informal forum for interested persons to present their concerns orally and to seek clarification of the proposal from representatives of OSHA who will conduct the public meeting.

OSHA requests that any person wishing to make an oral presentation at the meeting notify OSHA in advance. Please identify the person and/or organization intending to make a presentation, and the subject matter and a brief summary of the intended presentation, if possible. This written notice should be sent to Docket S108–1, Docket Office, Rm. S–6212, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210 no later than November 1, 1979. All persons giving advance notice will have time reserved for their oral presentations. Persons wishing to speak who have not filed advance notices are requested to register from 8:30 a.m. to 9:00 a.m. on the morning of the public meeting.

As long as time permits, all persons who wish to be heard will be allowed to speak. However, in the interest of time, persons who have provided advance notice will be given priority.

Detailed minutes or a transcript of the meeting will be prepared and will be made a part of the record of this rulemaking. Copies of the minutes will be available for inspection at the OSHA Docket Office, Room S–6212, U.S. Department of Labor, 3rd Street and Constitution Avenue, N.W., Washington, D.C. 20210.

(c) Pursuant to 29 CFR 1911.11 (b) and (c), interested persons may, in addition to filing written submissions and attending the public meeting as provided above, file objections to the proposal, requesting an informal public hearing with respect thereto in accordance with the following conditions:

(1) The objections must include the name and address of the objector;

(2) The objections must be postmarked on or before November 30, 1979, and submitted to the Docket Office at the above address;

(3) The objections must specify with particularity the provisions of the proposed rule to which objection is taken, and must state the grounds therefor.

(4) Each objection must be separately stated and numbered; and

(5) The objections must be accompanied by a detailed summary of the evidence proposed to be adduced at the requested hearing.

## V. Authority

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Washington, D.C. 20210.

Accordingly, pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655), Secretary of Labor's Order No. 8–76 (41 FR 25059), and 29 CFR Part 1911, it is proposed to amend Subpart S of 29 CFR Part 1910 as set forth below.

Signed at Washington, D.C. this 18th day of September, 1979.

**Eula Bingham,**

*Assistant Secretary of Labor.*

Subpart S of Part 1910 of Title 29 of the Code of Federal Regulations is proposed to be amended as follows:

1. By adding a new table of contents to read as follows:

**Subpart S—Electrical**

**General**

Sec.

1910.301 Introduction.

**Design Safety Standards for Electrical Systems**

1910.302 Electric utilization systems.
1910.303 General requirements.
1910.304 Wiring design and protection.
1910.305 Wiring methods, components, and equipment for general use.
1910.306 Specific purpose equipment and installations.
1910.307 Hazardous (classified) locations.
1910.308 Special systems
1910.309–1910.330 [Reserved]

**Safety Related Work Practices**

1910.331–1910.360 [Reserved]

**Safety Related Maintenance Requirements**

1910.361–1910.380 [Reserved]

**Safety Requirements for Special Equipment**

1910.381–1910.398 [Reserved]

**Definitions**

1910.399 Definitions applicable to this subpart.

**Appendix A**—Explanatory Data [Reserved]

**Appendix B**—Tables, Notes, and Charts [Reserved]

**Appendix C**—Reference Documents

**Authority:** Sec. 6(b), 84 Stat. 1593 (29 U.S.C. 655), Secretary of Labor's Order No. 8–76 (41 FR 25059) 29 CFR Part 1911.

2. By adding new §§ 1910.301 through 1910.303 to read as follows:

**General**

**§ 1910.301 Introduction.**

This subpart addresses electrical safety requirements that are necessary for the practical safeguarding of employees in their workplace and is divided into four major divisions as follows:

(a) *Design safety standards for electrical systems.* These regulations are contained in §§ 1910.302 through 1910.330. At this time, only §§ 1910.302 through 1910.308 are used and they contain design safety standards for electric utilization systems. Included in this category is all electric equipment and installations required to provide

electric power and light for employee workplaces. Sections 1910.309 through 1910.330 ar reserved for possible future design safety standards for other electrical systems.

(b) *Safety related work practices.* These regulations will be contained in §§1910.331 through 1910.360.

(c) *Safety related maintenance requirements.* These regulations will be contained in §§ 1910.361 through 1910.380.

(d) *Safety requirements for special equipment.* These regulations will be contained in §§ 1910.381 through 1910.398.

Definitions applicable to each division are contained in § 1910.399.

**Design Safety Standards for Electrical Systems**

**§ 1910.302 Electric utilization systems.**

Sections 1910.302 through 1910.308 contain design safety standards for electric utilization systems.

(a) *Scope.*—(1) *Covered.* The provisions of §§ 1910.302 through 1910.308 cover electrical installations and utilization equipment installed or used within or on buildings, structures, and other premises including:

(i) Yards,

(ii) Carnivals,

(iii) Parking and other lots,

(iv) Mobile homes,

(v) Recreational vehicles,

(vi) Industrial substations,

(vii) Conductors that connect the installations to a supply of electricity, and

(viii) Other outside conductors on the premises.

(2) *Not covered.* The provisions of this subpart do not cover:

(i) Installations in ships, watercraft, railway rolling stock, aircraft, or automotive vehicles other than mobile homes and recreational vehicles.

(ii) Installations underground in mines.

(iii) Installations of railways for generation, transformation, transmission, or distribution of power used exclusively for operation of rolling stock or installations used exclusively for signaling and communication purposes.

(iv) Installation of communication equipment under the exclusive control of communication utilities, located outdors or in building spaces used exclusively for such installations.

(v) Installations under the exclusive control of electric utilities for the purpose of communication or metering; or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, etc., or outdoors by established rights on private property.

(b) *Extent of application.* (1) The requirements contained in the sections listed below shall apply to all electrical installations and utilization equipment regardless of when they were designed or installed:

| Sections | |
|---|---|
| 1910.307 | Hazardous (Classified) Locations |
| 1910.303(b) | Examination, Installation, and Use of Equipment |
| 1910.303(c) | Splices |
| 1910.303(d) | Arcing Parts |
| 1910.303(e) | Marking |
| 1910.303(f) | Identification of Disconnecting Means |
| 1910.303(g)(2) | Guarding of Live Parts |
| 1910.304(e)(1)(i) | Protection of Conductors and Equipment |
| 1910.304(e)(1)(iv) | Location in or on Premises |
| 1910.304(e)(1)(v) | Arcing or Suddenly Moving Parts |
| 1910.304(f)(1)(ii) | 2-Wire DC Systems to be Grounded |
| 1910.304(f)(1)(iii) and 1910.304(f)(1)(iv). | AC Systems to be Grounded |
| 1910.304(f)(1)(v) | AC Systems 50 to 1000 Volts not Required to be Grounded |
| 1910.304(f)(3) | Grounding Connections |
| 1910.304(f)(4) | Grounding Path |
| 1910.304(f)(5)(iv)(*a*) through 1910.304(f)(5)(iv)(*d*). | Supports and Enclosures of Fixed Equipment Required to be Grounded |
| 1910.304(f)(5)(v) | Grounding of Equipment Connected by Cord and Plug |
| 1910.304(f)(5)(vi) | Grounding of Nonelectrical Equipment |
| 1910.304(f)(6)(i) | Methods of Grounding Fixed Equipment |
| 1910.305(g)(1)(i) and 1910.305(g)(1)(ii). | Flexible Cords and Cable, Uses |
| 1910.305(g)(1)(iii) | Flexible Cords and Cable Prohibited |
| 1910.305(g)(2)(ii) | Flexible Cords and Cables, Splices |
| 1910.305(g)(2)(iii) | Pull at Joints and Terminals of Flexible Cords and Cables |

(2) Every new electric utilization system and all new utilization equipment installed after March 15, 1972 and every replacement, modification, repair, or rehabilitation, after March 15, 1972 of any part of any electric utilization system or utilization equipment installed before March 15, 1972 shall be installed or made, and maintained, in accordance with the provisions of § 1910.302 through 1910.308 of this subpart.

**§ 1910.303 General requirements.**

(a) *Approval.* The conductors and equipment required or permitted by this subpart shall be acceptable only when approved.

(b) *Examination, installation, and use of equipment.*—(1) *Examination.* In judging equipment, considerations such as the following shall be evaluated:

(i) Suitability for installation and use in conformity with the provisions of this subpart. Suitability of equipment for an identified purpose may be evidenced by listing or labeling for that identified purpose.

(ii) Mechanical strength and durability, including, for parts designed to enclose and protect other equipment, the adequacy of the protection thus provided.

(iii) Electrical insulation.

(iv) Heating effects under conditions of use.

(v) Arcing effects.

(vi) Classification by type, size, voltage, current capacity, specific use.

(2) *Installation and use.* Listed or labeled equipment shall be used or installed in accordance with any instructions included in the listing or labeling.

(c) *Splices.* Conductors shall be spliced or joined with splicing devices suitable for the use or by brazing, welding, or soldering with a fusible metal or alloy. Soldered splices shall first be so spliced or joined as to be mechanically and electrically secure without solder and then soldered. All splices and joints and the free ends of conductors shall be covered with an insulation equivalent to that of the conductors or with an insulating device suitable for the purpose.

(d) *Arcing parts.* Parts of electric equipment which in ordinary operation produce arcs, sparks, flames, or molten metal shall be enclosed or separated and isolated from all combustible material.

(e) *Marking.* The manufacturer's name, trademark, or other descriptive marking by which the organization responsible for the product may be identified shall be placed on all electric equipment. Other markings shall be provided giving voltage, current, wattage, and other ratings as may be required. The marking shall be of sufficient durability to withstand the environment involved.

(f) *Identification of disconnecting means.* Each disconnecting means required by this subpart for motors and applicances shall be legibly marked unless located and arranged so that its purpose is evident; and each disconnecting means required by this subpart for each service, feeder, or branch circuit shall be legibly marked to indicate its purpose at the point where the service, feeder or branch circuit originates. The marking shall be of sufficient durability to withstand the environment involved.

(g) *600 volts, nominal, or less.*—(1) *Working space about electric equipment.* Sufficient access and working space shall be provided and maintained about all electric equipment to permit ready and safe operation and maintenance of such equipment.

(i) *Working clearances.* Except as elsewhere required or permitted in this subpart, the dimension of the working space in the direction of access to live

parts operating at 600 volts or less and likely to require examination, adjustment, servicing, or maintenance while alive shall not be less than indicated in Table S–1. In addition to the dimensions shown in Table S–1, workspace shall not be less than 30 inches wide in front of the electric equipment. Distances shall be measured from the live parts if such are exposed, or from the enclosure front or opening if such are enclosed. Concrete, brick, or tile walls shall be considered as grounded. Working space shall not be required in back of assemblies such as dead-front switchboards or motor control centers where there are no renewable or adjustable parts such as fuses or switches on the back and where all connections are accessible from locations other than the back.

**Table S–1—Working Clearances**

| Nominal voltage to ground | Minimum clear distance for condition | | |
|---|---|---|---|
| | (a) | (b) | (c) |
| | (Feet) | (Feet) | (Feet) |
| 0–150 | *3 | *3 | 3 |
| 151–600 | *3 | 3½ | 4 |

*Note: Minimum clear distances shall be permitted to be 2 feet 6 inches for installations built prior to (*date of final rule will be inserted*).

Where Conditions *(a), (b),* and *(c)* are as follows: *(a)* Exposed live parts on one side and no live or grounded parts on the other side of the working space, or exposed live parts on both sides effectively guarded by suitable wood other insulating material. Insulated wire or insulated busbars operating at not over 300 volts shall not be considered live parts.

*(b)* Exposed live parts on one side and grounded parts on the other side.

*(c)* Exposed live parts on both sides of the workspace [not guarded as provided in Condition *(a)*] with the operator between.

(ii) *Clear spaces.* Working space required by this subpart shall not be used for storage. When normally enclosed live parts are exposed for inspection or servicing, the working space, if in a passageway or general open space, shall be suitably guarded.

(iii) *Access and entrance to working space.* At least one entrance of sufficient area shall be provided to give access to the working space about electric equipment.

(iv) *Front working space.* In all cases where there are live parts normally exposed on the front of switchboards or motor control centers, the working space in front of such equipment shall not be less than 3 feet.

(v) *Illumination.* Illumination shall be provided for all working spaces about service equipment, switchboards, panelboards, and motor control centers installed indoors.

(vi) *Headroom.* The minimum headroom of working spaces about service equipment, switchboards, panelboards, or motor control centers shall be 6 feet 3 inches.

**Note.**—As used in this subpart a motor control center is an assembly of one or more enclosed sections having a common power bus and principally containing motor control units.

(2) *Guarding of live parts.* (i) Except as elsewhere required or permitted by this subpart, live parts of electric equipment operating at 50 volts or more shall be guarded against accidental contact by approved cabinets or other forms of approved enclosures, or by any of the following means:

*(a)* By location in a room, vault, or similar enclosure that is accessible only to qualified persons.

*(b)* By suitable permanent, substantial partitions or screens so arranged that only qualified persons will have access to the space within reach of the live parts. Any openings in such partitions or screens shall be so sized and located that persons are not likely to come into accidental contact with the live parts or to bring conducting objects into contact with them.

*(c)* By location on a suitable balcony, gallery, or platform so elevated and arranged as to exclude unqualified persons.

*(d)* By elevation of 8 feet or more above the floor or other working surface.

(ii) In locations where electric equipment would be exposed to physical damage, enclosures or guards shall be so arranged and of such strength as to prevent such damage.

(iii) Entrances to rooms and other guarded locations containing exposed live parts shall be marked with conspicuous warning signs forbidding unqualified persons to enter.

(h) *Over 600 volts, nominal.*—(1) *General.* Conductors and equipment used on circuits exceeding 600 volts, nominal, shall comply with all applicable provisions of the preceding requirements of this chapter and with the following provisions which supplement or modify the preceding requirements. In no case shall the provisions of paragraphs (h)(2), (h)(3), and (h)(4) of this section apply to the equipment on the supply side of the service conductors.

(2) *Enclosure for electrical installations.* Electrical installations in a vault, room, closet or in an area surrounded by a wall, screen, or fence, access to which is controlled by lock and key or other approved means, shall be considered to be accessible to qualified persons only. A wall, screen, or fence less than 8 feet in height shall not be considered as preventing access unless it has other features that provide a degree of isolation equivalent to an 8 foot fence.

The entrances to all buildings, rooms, or enclosures containing exposed live parts or exposed conductors operating at over 600 volts, nominal, shall be kept locked or shall be under the observation of a qualified person at all times.

(i) *Installations accessible to qualified persons only.* Electrical installations having exposed live parts shall be accessible to qualified persons only and shall comply with the applicable provisions of paragraph (h)(3) of this section.

(ii) *Installations accessible to unqualified persons.* Electrical installations that are open to unqualified persons shall be made with metal-enclosed equipment or shall be enclosed in a vault or in an area, access to which is controlled by a lock. If metal-enclosed equipment is installed so that the bottom of the enclosure is less than 8 feet above the floor, the door or cover shall be kept locked. Metal-enclosed switchgear, unit substations, transformers, pull boxes, connection boxes, and other similar associated equipment shall be marked with appropriate caution signs. When exposed to physical damage from vehicular traffic, suitable guards shall be provided. Ventilating or similar openings in metal-enclosed equipment shall be designed so that foreign objects inserted through these openings will be deflected from energized parts.

(3) *Workspace about equipment.* Sufficient space shall be provided and maintained about electric equipment to permit ready and safe operation and maintenance of such equipment. Where energized parts are exposed, the minimum clear workspace shall not be less than 6 feet 6 inches high (measured vertically from the floor or platform), or less than 3 feet wide (measured parallel to the equipment). The depth shall be as required in Table S–2. In all cases, the workspace shall be adequate to permit at least a 90-degree opening of doors or hinged panels.

(i) *Working space.* The minimum clear working space in front of electric equipment such as switchboards, control panels, switches, circut breakers, motor controllers, relays, and similar equipment shall not be less than specified in Table S–2 unless otherwise specified in this subpart. Distances shall be measured from the live parts if such are exposed or from the enclosure front or opening if such are enclosed.

*Exception: Working space is not required in back of equipment such as deadfront switchboards or control assemblies where there are no renewable or adjustable parts (such as fuses or switches) on the back and where all connections are accessible from locations other than the back. Where rear access is required to work on the energized parts on the back of enclosed equipment, a minimum working space of 30 inches horizontally shall be provided.*

**Table S-2-Mimimum Depth of Clear Working Space in Front of Electric Equipment**

| Nominal voltage to ground | Conditions | | |
|---|---|---|---|
| | (a) | (b) | (c) |
| | (feet) | (feet) | (feet) |
| 601-2,500 | 3 | 4 | 5 |
| 2,501-9,000 | 4 | 5 | 6 |
| 9,001-25,000 | 5 | 6 | 9 |
| *25,001-75kv | 6 | 8 | 10 |
| *Above 75kV | 8 | 10 | 12 |

*Note.—Minimum depth of clear working space in front of electric equipment with a nominal voltage to ground above 25,000 volts shall be permitted to be the same as for 25,000 under Conditions (*a*), (*b*), and (*c*) for installations built prior to [*date of final rule will be inserted*].

Where Conditions *(a), (b), and (c)* are as follows:

*(a)* Exposed live parts on one side and no live or grounded parts on the other side of the working space, or exposed live parts on both sides effectively guarded by suitable wood or other insulating materials. Insulated wire or insulated busbars operating at not over 300 volts shall not be considered live parts.

*(b)* Exposed live parts on one side and grounded parts on the other side. Concrete, brick, or tile walls will be considered as grounded surfaces.

*(c)* Exposed live parts on both sides of the workspace not guarded as provided in Condition (a) with the operator between.

(ii) *Illumination.* Adequate illumination shall be provided for all working spaces about electric equipment. The lighting outlets shall be so arranged that persons changing lamps or making repairs on the lighting system will not be endangered by live parts or other equipment. The points of control shall be so located that persons are not likely to come in contact with any live part or moving part of the equipment while turning on the lights.

(iii) *Elevation of unguarded live parts.* Unguarded live parts above working space shall be maintained at elevations not less than specified in Table S-3.

**Table S-3—Elevation of Unguarded Energized Parts Above Working Space**

| Nominal voltage between phases | Minimim elevation |
|---|---|
| 601-7,500 | *8 feet 6 inches. |
| 7,501-35,000 | 9 feet. |
| Over 35kV | 9 feet+0.37 inches per kV above 35. |

*Note.—Minimum elevation shall be permitted to be 8 feet 0 inches for installations built prior to [*date of final rule will be inserted*], where the nominal voltage between phases is in the range of 601-6600 volts.

(4) *Entrance and access to workpace.* (i) At least one entrance not less than 24 inches wide and 6 feet 6 inches high shall be provided to give access to the working space about electric equipment. On switchboard and control panels exceeding 48 inches in width, there shall be one entrance at each end of such board where reasonably practicable. Where bare energized parts at any voltage or insulated energized parts above 600 volts are located adjacent to such entrance, they shall be suitably guarded.

(ii) Permanent ladders or stairways shall be provided to give safe access to the working space around electric equipment installed on platforms, balconies, mezzanine floors, or in attic or roof rooms or spaces.

3. The first sentence and the first three words of the second sentence of paragraph (c) of § 1910.309, which reference the 1971 National Electrical Code, would be deleted. The remainder of paragraph (c) of § 1910.309 would be redesignated as paragraph (b)(1) of new § 1910.304.

4. A new § 1910.304 would be added to read as follows:

**§ 1910.304 Wiring design and protection.**

(a) *Use and identification of grounded and grounding conductors.*—(1) *Identification of conductors.* A conductor used as a grounded conductor shall be identifiable and distinguishable from all other conductors. A conductor used as an equipment grounding conductor shall be identifiable and distinguishable from other conductors.

(2) *Polarity of connections.* No grounded conductor shall be attached to any terminal or lead so as to reverse designated polarity.

(b) *Branch circuits*—(1) *Ground-fault protection for personal on construction sites.* [Redesignated]

(2) *Outlet devices.* Outlet devices shall have an ampere rating not less than the load to be served.

(c) *Outside branch circuit, feeder, and service conductors, 600 volts, nominal, or less.* Paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this section apply to branch circuit, feeder, and service conductors run outdoors as open conductors.

(1) *Conductors on poles.* Conductors supported on poles shall provide a horizontal climbing space not less than the following:

(i) Power conductors below communication conductors—30 inches.

(ii) Power conductors alone or above communication conductors: 300 volts or less—24 inches; more than 300 volts—30 inches.

(iii) Communication conductors below power conductors—same as power conductors.

(2) *Clearance from ground.* Open conductors shall conform to the following minimum clearances:

(i) 10 feet—above finished grade, sidewalks, or from any platform or projection from which they might be reached.

(ii) 12 feet—over areas subject to vehicular traffic other than truck traffic.

(iii) 15 feet—over areas other than those specified in paragraph (c)(2)(iv) of this section that are subject to truck traffic.

(iv) 18 feet—over public streets, alleys, roads, and driveways.

(3) *Clearance from building openings.* Conductors shall have a clearance of at least 3 feet from windows, doors, porches, fire escapes, or similar locations. Conductors run above the top level of a window shall be considered out of reach from that window.

(4) *Clearance over roofs.* Except as provided in paragraphs (c)(4)(i) or (c)(4)(ii) of this section, conductors shall have a clearance of not less than 8 feet from the highest point of roofs over which they pass.

(i) Where the voltage between conductors is 300 volts or less and the roof has a slope of not less than 4 inches in 12, the clearance from roofs shall be at least 3 feet.

(ii) Where the voltage between conductors is 300 volts or less and the conductors do not pass over more than 4 feet of the overhang portion of the roof and they are terminated at a through-the-roof raceway or approved support, the clearance from roofs shall be at least 18 inches.

(5) *Location of outdoor lamps.* Lamps for outdoor lighting shall be located below all live conductors, transformers, or other electric equipment, unless such equipment is controlled by a disconnecting means that can be locked in the open position or unless adequate clearances or other safeguards are provided for relamping operations.

(d) *Services.*—(1) *Disconnecting means.*—(i) *General.* Means shall be provided to disconnect all conduotors in a building or other structure from the service-entrance conductors. The disconnecting means shall plainly

indicate whether it is in the open or closed position and shall be installed at a readily accessible location nearest the point of entrance of the service-entrance conductors.

(ii) *Simultaneous opening of poles.* Each disconnecting means shall simultaneously disconnect all ungrounded conductors.

(2) *Services over 600 volts, nominal.*—(i) *Guarding.* Service-entrance conductors installed as open wires shall be guarded to make them accessible only to qualified persons.

(ii) *Warning signs.* Signs warning of high voltage shall be posted where unauthorized persons might come in contact with live parts.

(e) *Overcurrent protection.*—(1) *600 volts, nominal, or less.*—(i) *Protection of conductors and equipment.* Conductors and equipment shall be protected from overcurrent in accordance with their ability to safely conduct current.

(ii) *Grounded conductors.* Except for motor running overload protection, overcurrent devices shall not interrupt the continuity of the grounded conductor unless all conductors of the circuit are opened simultaneously.

(iii) *Disconnection of fuses and thermal cutouts.* Except for service fuses, all cartridge fuses which are accessible to other than qualified persons and all fuses and thermal cutouts on circuits over 150 volts to ground shall be provided with disconnecting means. This disconnecting means shall be installed so that the fuse or thermal cutout can be disconnected from its supply without disrupting service to equipment and circuits unrelated to the overcurrent device.

(iv) *Location in or on premises.* Overcurrent devices shall be readily accessible to each occupant or their authorized building management personnel. These overcurrent devices shall not be located where they will be exposed to physical damage nor in the vicinity of easily ignitable material.

(v) *Arcing or suddenly moving parts.* Fuses and circuit breakers shall be so located or shielded that persons will not be burned or otherwise injured by their operation.

(vi) *Circuit breakers.* Circuit breakers shall clearly indicate whether they are in the open (off) or closed (on) position. Where circuit breaker handles on switchboards are operated vertically rather than horizontally or rotationally, the up position of the handle shall be the closed (on) position. Where used as switches in 120 volts, fluorescent lighting circuits, circuit breakers shall be approved for the purpose and marked "SWD."

(2) *Over 600 volts, nominal.* Feeders and branch circuits shall have short-circuit protection.

(f) *Grounding.* Paragraphs (f)(1) through (f)(7) of this section cover grounding requirements for systems, circuits, and equipment.

(1) *Systems to be grounded.* The following systems which supply premises wiring shall be grounded:

(i) All 3-wire DC systems shall have their neutral conductor grounded.

(ii) All 2-wire DC systems operating at over 50 volts through 300 volts between conductors shall be grounded unless:

(*a*) They supply only industrial equipment in limited areas and are equipped with a ground detector; or

(*b*) They are rectifier-derived from an AC system complying with paragraphs (f)(1)(iii), (f)(1)(iv), and (f)(1)(v) of this section; or

(*c*) They are fire-protective signaling circuits having a maximum current of 0.030 amperes.

(iii) All AC circuits of less than 50 volts shall be grounded where they are installed as overhead conductors outside of buildings or where they are supplied by transformers and the transformer primary suppy system is ungrounded or exceeds 150 volts to ground.

(iv) AC systems of 50 volts to 1000 volts that are not covered in paragraph (f)(1)(v) of this section shall be grounded under any of the following conditions:

(*a*) Where the system can be so grounded that the maximum voltage to ground on the ungrounded conductors does not exceed 150 volts.

(*b*) Where the system is nominally rated 480Y/277 volt, 3-phase, 4-wire in which the neutral is used as a circuit conductor.

(*c*) Where the system is nominally rated 240/120 volt, 3-phase, 4-wire in which the midpoint of one phase is used as a circuit conductor.

(*d*) Where a service conductor is uninsulated.

(v) AC systems of 50 volts to 1000 volts are not required to be grounded under any of the following conditions:

(*a*) Where the system is used exclusively to supply industrial electric furnaces for melting, refining, tempering, and the like.

(*b*) Where the system is separately derived and is used exclusively for rectifiers supplying only adjustable speed industrial drives.

(*c*) Where the system is separately derived and is supplied by a transformer that has a primary voltage rating less than 1000 volts, provided all of the following conditions are met:

(*1*) The system is used exclusively for control circuits,

(*2*) The conditions of maintenance and supervision assure that only qualified persons will service the installation,

(*3*) Continuity of control power is required,

(*4*) Ground detectors are installed on the control system.

(*d*) Where the system is an isolated power system that supplies circuits in health care facilities.

(2) *Conductors to be grounded.* For AC premises wiring systems the identified conductor shall be grounded.

(3) *Grounding connections.* (i) For a grounded system, a grounding electrode conductor shall be used to connect both the equipment grounding conductor and the grounded circuit conductor to the grounding electrode. Both the equipment grounding conductor and the grounding electrode conductor shall be connected to the grounded circuit conductor on the supply side of the service disconnecting means or on the supply side of the system disconnecting means or overcurrent devices if the system is separately derived.

(ii) For an ungrounded service-supplied system, the equipment grounding conductor shall be connected to the grounding electrode conductor at the service equipment. For an ungrounded separately derived system, the equipment grounding conductor shall be connected to the grounding electrode conductor at, or ahead of, the system disconnecting means or overcurrent devices.

(iii) On extensions of existing branch circuits which do not have an equipment grounding conductor, grouping-type receptacles shall be permitted to be grounded to a grounded cold water pipe near the equipment:

(4) *Grounding path.* The path to ground from circuits, equipment, and enclosures shall be permanent and continuous.

(5) *Support, Enclosures, and Equipment To Be Grounded*—(i) *Supports and enclosures for conductors.* Except as provided in paragraphs (f)(5)(i)(*a*) and (f)(5)(i)(*b*) of this section metal cable trays, metal raceways, and metal enclosures for conductors shall be grounded.

(*a*) Metal enclosures such as sleeves and similar enclosures that are used to protect cable assemblies from physical damage need not be grounded.

(*b*) Metal enclosures for conductors added to existing installations of open wire, knob-and-tube wiring, and nonmetallic-sheathed cable shall not be required to be grounded if all of the following conditions are met: (*1*) runs are less than 25 feet; (*2*) enclosures are free from probable contact with ground, grounded metal, metal laths, or other

conductive materials; and (3) enclosures are guarded against contact by persons.

(ii) *Service equipment enclosures.* Metal enclosures for service equipment shall be grounded.

(iii) *Frames of ranges and clothes dryers.* Frames of electric ranges, wall-mounted ovens, counter-mounted cooking units, clothes dryers, and metal outlet or junction boxes which are part of the circuit for these appliances shall be grounded.

(iv) *Fixed equipment.* Exposed non-current-carrying metal parts of fixed equipment likely to become energized shall be grounded under any of the conditions specified in paragraphs (f)(5)(iv) (*a*) through (f)(5)(iv) (*f*) of this section.

(*a*) Where within 8 feet vertically or 5 feet horizontally of ground or grounded metal objects and subject to contact by persons.

(*b*) Where located in a wet or damp location and not isolated.

(*c*) Where in electrical contact with metal.

(*d*) Where in a hazardous (classified) location.

(*e*) Where supplied by a metal-clad, metal-sheathed, or grounded metal raceway wiring method.

(*f*) Where equipment operates with any terminal at over 150 volts to ground; except the following need not be grounded:

(*1*) Enclosures for switches or circuit breakers used for other than service equipment and accessible to qualified persons only;

(*2*) Metal frames of electrically heated devices which are permanently and effectively insulated from ground; and

(*3*) The cases of distribution apparatus such as transformers and capacitors mounted on wooden poles at a height exceeding 8 feet above ground or grade level.

(v) *Equipment connected by cord and plug.* Under any of the conditions described in paragraphs (f)(5)(v) (*a*) through (f)(5)(v) (*c*) of this section exposed non-current-carrying metal parts of cord- and plug-connected equipment likely to become energized shall be grounded.

(*a*) In hazardous (classified) locations (See § 1910.306).

(*b*) Where operated at over 150 volts to ground, except guarded motors and metal frames of electrically heated appliances where the appliance frames are permanently and effectively insulated from ground.

(*c*) In other than residential occupancies:

(*1*) Refrigerators, freezers, and air conditioners;

(*2*) Clothes-washing, clothes-drying, dishwashing machines, sump pumps, and electrical aquarium equipment;

(*3*) Hand-held motor operated tools;

(*4*) Motor operated appliances of the following types: hedge clippers, lawn mowers, snow blowers, and wet scrubbers;

(*5*) Cord- and plug-connected appliances used in damp or wet locations or by persons standing on the ground or on metal floors or working inside of metal tanks or boilers;

(*6*) Portable and mobile X-ray and associated equipment;

(*7*) Tools likely to be used in wet and conductive locations; and

(*8*) Portable hand lamps.

Tools likely to be used in wet and conductive locations shall not be required to be grounded where supplied through an isolating transformer with an ungrounded secondary of not over 50 volts.

Listed portable tools and appliances protected by an approved system of double insulation, or its equivalent, shall not be required to be grounded. Where such a system is employed, the equipment shall be distinctively marked to indicate that the tool or appliance utilizes an approved system of double insulation.

(vi) *Nonelectrical equipment.* The metal parts of the following nonelectrical equipment shall be grounded: Frames and track of electrically operated cranes, frames of nonelectrically driven elevator cars to which electric conductors are attached, hand operated metal shifting ropes or cables of electric elevators, and metal partitions, grill work, and similar metal enclosures around equipment of over 750 volts between conductors.

(6) *Methods of grounding fixed equipment.* (i) Non-current-carrying metal parts of fixed equipment, if required to be grounded, shall be grounded by an equipment grounding conductor which is contained within the same raceway, cable, or cord, or runs with or encloses the circuit conductors. For DC circuits only, the equipment grounding conductor shall be permitted to be run separately from the circuit conductors.

(ii) Electric equipment secured to, and in electrical contact with, a grounded metal rack or structure provided for its support shall be considered to be effectively grounded. Metal car frames supported by metal hoisting cables attached to or running over metal sheaves or drums of grounded elevator machines shall also be considered to be effectively grounded.

(7) *Grounding of systems and circuits of 1,000 volts and over (high voltage).*—(i) *General.* Where high voltage systems are grounded, they shall comply with all applicable provisions of paragraphs (f)(1) through (f)(6) of this section as supplemented and modified by paragraphs (f)(7)(ii) and (f)(7)(iii) of this section.

(ii) *Grounding of systems supplying portable equipment.* Systems supplying portable high voltage equipment, other than substations installed on a temporary basis, shall comply with paragraphs (f)(7)(ii) (*a*) through (f)(7)(ii) (*d*) of this section:

(*a*) Portable high voltage equipment shall be supplied from a system having its neutral grounded through an impedance. Where a delta-connected high voltage system is used to supply portable equipment, a system neutral shall be derived.

(*b*) Exposed non-current-carrying metal parts of portable equipment shall be connected by an equipment grounding conductor to the point at which the system neutral impedance is grounded.

(*c*) Ground-fault detection and relaying shall be provided to automatically de-energize any high voltage system component which has developed a ground fault. The continuity of the equipment grounding conductor shall be continuously monitored so as to de-energize automatically the high voltage feeder to the portable equipment upon loss of continuity of the equipment grounding conductor.

(*d*) The grounding electrode to which the portable equipment system neutral impedance is connected shall be isolated from and separated in the ground by at least 20 feet from any other system or equipment grounding electrode, and there shall be no direct connection between the grounding electrodes, such as buried pipe, fence, etc.

(iii) *Grounding of equipment.* All non-current-carrying metal parts of portable equipment and fixed equipment including their associated fences, housings, enclosures, and supporting structures shall be grounded, except that equipment which is guarded by location and isolated from ground need not be grounded. Additionally, pole-mounted distribution apparatus at a height exceeding 8 feet above ground or grade level need not be grounded.

5. By adding new §§ 1910.305 through 1910.307 to read as follows:

**§ 1910.305 Wiring methods, components, and equipment for general use.**

(a) *Wiring methods.* The provisions of this section do not apply to the conductors that are an integral part of factory-assembled equipment.

(1) *General requirements.*—(i) *Electrical continuity of metal raceways and enclosures.* Metal raceways, cable armor, and other metal enclosures for conductors shall be metallically joined together into a continuous electric conductor and shall be so connected to all boxes, fittings, and cabinets as to provide effective electrical continuity.

(ii) *Wiring in ducts.* No wiring systems of any type shall be installed in ducts used to transport dust, loose stock or flammable vapors. No wiring system of any type shall be installed in any duct, or shaft containing only such ducts, used for vapor removal or for ventilation of commercial-type cooking equipment.

(2) *Temporary wiring.* Temporary electrical power and lighting wiring methods may be of a class less than would be required for a permanent installation. Except as specifically modified in the following subparagraphs, all other requirements of this subpart for permanent wiring shall apply to temporary wiring installations.

(i) *Uses permitted, 600 volts, nominal, or less.* Temporary electrical power and lighting installations shall be permitted:

(*a*) During the period of construction, remodeling, maintenance, repair, or demolition of buildings, structures, equipment, or similar activities,

(*b*) For experimental or development work, and

(*c*) For a period not to exceed 90 days for Christmas decorative lighting, carnivals, and similar purposes.

(ii) *Uses permitted, over 600 volts, nominal.* Temporary wiring shall be permitted during periods of construction, tests, experiments, or emergencies.

(iii) *General requirements for temporary wiring—(a) Feeders.* Feeders shall originate in an approved distribution center. The conductors shall be permitted within multiconductor cord or cable assemblies, or, where not subject to physical damage, they shall be permitted to be run as open conductors on insulators not more than 10 feet apart.

*(b) Branch circuits.* All branch circuits shall originate in an approved power outlet or panelboard. Conductors shall be permitted within multiconductor cord or cable assemblies or as open conductors. When run as open conductors they shall be fastened at ceiling height every 10 feet. No branch-circuit conductor shall be laid on the floor. Each branch circuit that supplies receptacles or fixed equipment shall contain a separate equipment grounding conductor when run as open conductors.

*(c) Receptacles.* All receptacles shall be of the grounding type. Unless installed in a complete metallic raceway, all branch circuits shall contain a separate equipment grounding conductor and all receptacles shall be electrically connected to the grounding conductor.

(*d*) *Earth returns.* No bare conductors nor earth returns shall be used for the wiring of any temporary circuit.

(*e*) *Disconnecting means.* Suitable disconnecting switches or plug connectors shall be installed to permit the disconnection of all ungrounded conductors of each temporary circuit.

(*f*) *Lamp protection.* All lamps for general illumination shall be protected from accidental contact or breakage. Protection shall be provided by elevation of at least 7 feet from normal working surface or by a suitable fixture or lampholder with a guard.

(*g*) *Splices.* On construction sites a box shall not be required for splices or junction connections where the circuit conductors are multiconductor cord or cable assemblies or open conductors. A box shall be used wherever a change is made to a raceway system or a cable system which is metal clad or metal sheathed.

(*h*) Flexible cords and cables shall be protected from accidental damage. Sharp corners and projections shall be avoided. When passing through doorways or other pinch points, protection shall be provided to avoid damage.

(3) *Cable trays*—(i) *Uses Permitted.* (*a*) The following shall be permitted to be installed in cable tray systems:

(*1*) Mineral-insulated metal-sheathed cable (Type MI);

(*2*) Armored cable (Type AC);

(*3*) Metal-clad cable (Type MC);

(*4*) Power-limited tray cable (Type PLTC);

(*5*) Nonmetallic-sheathed cable (Type NM or NMC);

(*6*) Shielded Nonmetallic-sheathed cable (Type SNM);

(*7*) Multiconductor service-entrance cable (Type SE or USE);

(*8*) Multiconductor underground feeder and branch-circuit cable (Type UF);

(*9*) Power and control tray cable (Type TC);

(*10*) Other factory-assembled, multiconductor control, signal, or power cables which are specifically approved for installation in cable trays; or

(*11*) Any approved conduit or raceway with its contained conductors.

(*b*) In industrial establishments only, where conditions of maintenance and supervision assure that only qualified persons will service the installed cable tray system, any of the cables in paragraphs (a)(3)(i)(*b*)(*1*) and (a)(3)(i)(*b*)(*2*) of this section shall be permitted to be installed in ladder, ventilated trough, or 4 inch ventilated channel-type cable trays:

(*1*) *Single conductor.* Single conductor cables shall be 250 MCM or larger, and shall be Types RHH, RHW, MV, USE, or THW. Other 250 MCM or larger single conductor cables shall be permitted if such cables are specifically approved for installation in cable trays. Where exposed to direct rays of the sun, cables shall be sunlight-resistant.

(*2*) *Multiconductor.* Type MV cables, where exposed to direct rays of the sun, shall be sunlight-resistant.

(*3*) *Cable trays* in hazardous (classified) locations shall contain only the cable types permitted in such locations.

(ii) *Uses not permitted.* Cable tray systems shall not be used in hoistways or where subjected to severe physical damage.

(4) *Open wiring on insulators.* (i) *Uses permitted.* Open wiring on insulators shall be permitted on systems of 600 volts, nominal, or less for industrial or agricultural establishments, indoors or outdoors, in wet or dry locations, where subject to corrosive vapors, and for services.

(ii) *Conductor supports.* Conductors shall be rigidly supported on noncombustible, nonabsorbent insulating materials and shall not contact any other objects.

(iii) *Flexible nonmetallic tubing.* In dry locations where not exposed to severe physical damage, conductors shall be permitted to be separately enclosed in flexible nonmetallic tubing. The tubing shall be in continuous lengths not exceeding 15 feet and secured to the surface by straps at intervals not exceeding 4 feet 6 inches.

(iv) *Through walls, floors, wood cross members, etc.* Open conductors shall be separated from contact with walls, floors, wood cross members, or partitions through which they pass by tubes or bushings of noncombustible, nonabsorbent insulating material. Where the bushing is shorter than the hole, a waterproof sleeve of nonconductive material shall be inserted in the hole and an insulating bushing slipped into the sleeve at each end in such a manner as to keep the conductors absolutely out of contact with the sleeve. Each conductor shall be carried through a separate tube or sleeve.

(v) *Protection from physical damage.* Conductors within 7 feet from the floor shall be considered exposed to physical damage. When open conductors cross ceiling joists and wall studs and are exposed to physical damage, they shall be protected.

(b) *Cabinets, boxes, and fittings*—(1) *Conductors entering boxes, cabinets, or fittings.* Conductors entering boxes, cabinets, or fittings shall be protected from abrasion, and openings through which conductors enter shall be adequately closed. Unused openings in cabinets, boxes, and fittings shall be effectively closed.

(2) *Covers and canopies.* All pull boxes, junction boxes, and fittings shall be provided with covers approved for the purpose. Where metal covers are used they shall be grounded. In completed installations each outlet box shall have a cover, faceplate, or fixture canopy. Covers of outlet boxes having holes through which flexible cord pendants pass shall be provided with bushings designed for the purpose or shall have smooth, well-rounded surfaces on which the cords may bear.

(3) *Pull and junction boxes for systems over 600 volts, nominal.* In addition to other requirements in this standard for pull and junction boxes, the following shall apply:

(i) Boxes shall provide a complete enclosure for the contained conductors or cables.

(ii) Boxes shall be closed by suitable covers securely fastened in place. Underground box covers that weight over 100 pounds shall be considered as meeting this requirement. Covers for boxes shall be permanently marked "HIGH VOLTAGE." The marking shall be on the outside of the box cover and shall be readily visible and legible.

(c) *Switches.*—(1) *Knife switches.* Single-throw knife switches shall be so connected that the blades are dead when the switch is in the open position. Single-throw knife switches approved for use in the inverted position shall be provided with a locking device that will ensure that the blades remain in the open position when so set. Double-throw knife switches shall be permitted to be mounted so that the throw will be either vertical or horizontal. Where the throw is vertical a locking device shall be provided to ensure that the blades remain in the open position when so set.

(2) *Faceplates for flush-mounted snap switches.* Flush snaps switches that are mounted in ungrounded metal boxes and located within reach of conducting floors or other conducting surfaces shall be provided with faceplates of nonconducting, noncombustible material.

(d) *Switchboards and panelboards.* Switchboards that have any exposed live parts shall be located in permanently dry locations and accessible only to qualified persons. Panelboards shall be mounted in cabinets, cutout boxes, or enclosures approved for the purpose and shall be dead front, except panelboards other than the dead front externally-operable type shall be permitted where accessible only to qualified persons. Exposed blades of knife switches shall be dead when open.

(e) *Enclosures for damp or wet locations.* (1) Cabinets, cutout boxes, fittings, and panelboard enclosures in damp or wet locations shall be installed so as to prevent moisture or water from entering and accumulating within the enclosure. In wet locations the enclosure shall be weatherproof.

(2) Switches, circuit breakers, and switchboards installed in a wet location shall be enclosed in a weatherproof enclosure.

(f) *Conductors for general wiring.* All conductors used for general wiring shall be insulated unless specifically permitted to be otherwise. The conductor insulation shall be of a type that is approved for the voltage, operating temperature, and location of use. Insulated conductors shall be distinguishable by appropriate color or other suitable means as being grounded conductors, ungrounded conductors, or equipment grounding conductors.

(g) *Flexible cords and cables, 600 volts, nominal, or less.*—(1) *Use of flexible cords and cables.* (i) Flexible cords and cables shall be approved and suitable for conditions of use and location. Flexible cords and cables shall be used only for:

(*a*) Pendants;

(*b*) Wiring of fixtures;

(*c*) Connection of portable lamps or appliances;

(*d*) Elevator cables;

(*e*) Wiring of cranes and hoists;

(*f*) Connection of stationary equipment to facilitate their frequent interchange;

(*g*) Prevention of the transmission of noise or vibration;

(*h*) Appliances where the fastening means and mechanical connections are designed to permit removal for maintenance and repair; or

(*i*) Data processing cables approved as a part of the data processing system.

(ii) where used as permitted in paragraphs (g)(1)(i)(*c*), (g)(1)(i)(*f*), and (g)(1)(i)(*h*) of this section, each flexible cord shall be equipped with an attachment plug and shall energized from an approved receptacle outlet.

(iii) Unless specifically permitted in paragraph (g)(1)(i) of this section, flexible cords and cables shall not be used:

(*a*) As a substitute for the fixed wiring of a structure;

(*b*) Where run through holes in walls, ceilings, or floors;

(*c*) Where run through doorways, windows, or similar openings;

(*d*) Where attached to building surfaces; or

(*e*) Where concealed behind building walls, ceilings, or floors.

(iv) Flexible cords used in show windows and showcases shall be Type S, SO, SJ, SJO, ST, STO, SJT, SJTO, or AFS except for the wiring of chain-supported lighting fixtures and supply cords for portable lamps and other merchandise being displayed or exhibited.

(2) *Identification, splices, and terminations.* (i) A conductor of a flexible cord or cable that is used as a grounded conductor or an equipment grounding conductor shall be distinguishable from other conductors. Types SJ, SJO, SJT, SJTO, S, SO, ST, and STO shall be durably marked on the surface with the type designation, size, and number of conductors.

(ii) Flexible cords shall be used only in continuous lengths without splice or tap when initially installed. The repair of hard usage and extra hard usage flexible cords No. 12 or larger shall be permitted if spliced so that the splice retains the insulation, outer sheath properties, and usage characteristics of the cord being spliced.

(iii) Flexible cords shall be connected to devices and fittings so that strain relief is provided which will prevent pull from being directly transmitted to joints or terminal screws.

(h) *Portable cables over 600 volts, nominal.* Multiconductor portable cable for use in supplying power to portable or mobile equipment at over 600 volts, nominal, shall consist of No. 8 or larger conductors employing flexible stranding. Cables operated at over 2000 volts shall be shielded for the purpose of confining the voltage stresses to the insulation. Grounding conductors shall be provided. Connectors for these cables shall be of a locking type with provisions to prevent their opening or closing while energized. Strain relief shall be provided at connections and terminations. Portable cables shall not be operated with splices unless the splices are of the permanent molded, vulcanized, or other approved type. Termination enclosures shall be suitably marked with a high voltage hazard warning and terminations shall be accessible only to authorized and qualified personnel.

(i) *Fixture wires*—(1) *General.* Fixture wires shall be a type approved for the voltage, temperature, and location of use. A fixture wire which is used as a grounded conductor shall be identified.

(2) *Uses permitted.* Fixture wires shall be permitted:

(i) For installation in lighting fixtures and in similar equipment where enclosed or protected and not subject to bending or twisting in use; or

(ii) For connecting lighting fixtures to the branch-circuit conductors supplying the fixtures.

(3) *Uses not permitted.* Fixture wires shall not be used as branch-circuit conductors except as permitted for Class 1 power limited circuits.

(j) *Equipment for general use*—(1) *Lighting fixtures, lampholders, lamps, and receptacles.* (i) Fixtures, lampholders, lamps, rosettes, and receptables shall have no live parts normally exposed to contact except rosettes and cleat-type lampholders and receptacles located at least 8 feet above the floor shall be permitted to have exposed parts.

(ii) Handlamps of the portable type supplied through flexible cords shall be equipped with a handle of molded composition or other material approved for the purpose, and a substantial guard shall be attached to the lampholder or the handle.

(iii) Lampholders of the screw-shell type shall be installed for use as lampholders only. Lampholders installed in wet or damp locations shall be of the weatherproof type.

(iv) Fixtures installed in wet or damp locations shall be approved for the purpose and shall be so constructed or installed that water cannot enter or accumulate in wireways, lampholders, or other electrical parts.

(2) *Receptacles, cord connectors, and attachment plugs (caps).* (i) Receptacles, cord connectors, and attachment plugs shall be constructed so that the receptacle or cord connectors will not accept an attachment plug with a different voltage or current rating than that for which the device is intended, except a 20-ampere T-slot receptacle or cord connector shall be permitted to accept a 15-ampere attachment plug of the same voltage rating.

(ii) A receptacle installed in a wet or damp location shall be suitable for the location.

(3) *Appliances.* (i) Appliances, other than those in which the current-carrying parts at high temperatures are necessarily exposed, shall have no live parts normally exposed to contact.

(ii) A means shall be provided to disconnect each appliance.

(iii) Each appliance shall be marked with the rating in volts and amperes or volts and watts.

(4) *Motors.*—(i) *In sight from.* Where specified that one equipment shall be "in sight from" another equipment, one shall be visible and not more than 50 feet from the other.

(ii) *Disconnecting means. (a)* A disconnecting means shall be located in sight from the controller location. However, a single disconnecting means shall be permitted to be located adjacent to a group of coordinated controllers mounted adjacent to each other on a multi-motor continuous process machine. The controller disconnecting means for motor branch circuits over 600 volts, nominal, shall be permitted to be out of sight of the controller, if the controller is marked with a warning label giving the location and identification of the disconnecting means to be locked in the open position.

*(b)* The disconnecting means shall disconnect the motor and the controller from all ungrounded supply conductors and shall be so designed that no pole can be operated independently.

*(c)* Where a motor and the driven machinery are not in sight from the controller location, the installation shall comply with one of the following conditions:

*(1)* The controller disconnecting means shall be capable of being locked in the open position.

*(2)* A manually operable switch that will disconnect the motor from its source of supply shall be placed within sight from the motor location.

*(d)* The disconnecting means shall plainly indicate whether it is in the open (off) or closed (on) position.

*(e)* The disconnecting means shall be readily accessible. When more than one disconnect is provided, only one need be readily accessible.

*(f)* An individual disconnecting means shall be provided for each motor, but a single disconnecting means may be used for a group of motors under any one of the following conditions:

*(1)* Where a number of motors drive special parts of a single machine or piece of apparatus, such as metal and woodworking machines, cranes, and hoists.

*(2)* Where a group of motors is under the protection of one set of branch-circuit protective devices.

*(3)* Where a group of motors is in a single room within sight from the location of the disconnecting means.

(iii) *Motor overload, short-circuit, and ground-fault protection.* Motors, motor-control apparatus, and motor branch-circuit conductors shall be protected against overheating due to motor overloads or failure to start, and against short-circuits or ground faults. These provisions shall not require overload protection that will stop a motor where a shutdown is likely to introduce additional or increased hazards, as in the case of fire pumps, or where continued operation of a motor is necessary for a safe shutdown of equipment or a process and motor overload sensing devices are connected to a supervised alarm.

(iv) *Protection of live parts—all voltages. (a)* Stationary motors having commutators, collectors, and brush rigging located inside of motor end brackets and not conductively connected to supply circuits operating at more than 150 volts to ground need not be guarded.

Exposed live parts of motors and controllers operating at 50 volts or more between terminals shall be guarded against accidential contact by one of the following:

*(1)* By installation in a room or enclosure that is accessible only to qualified persons.

*(2)* By installation on a suitable balcony, gallery, or platform, so elevated and arranged as to exclude unqualified persons.

*(3)* By elevation 8 feet or more above the floor.

*(b)* Where live parts of motors or controllers operating at over 150 volts to ground are guarded against accidental contact only by location, and where adjustment or other attendance may be necessary during the operation of the apparatus, suitable insulating mats or platforms shall be provided so that the attendant cannot readily touch live parts unless standing on the mats or platforms.

(5) *Transformers.* (i) The following subparagraphs cover the installation of all transformers except the following:

*(a)* Current transformers;

(*b*) Dry-type transformers installed as a component part of other apparatus;

(*c*) Transformers which are an integral part of an X-ray, high-frequency, or electrostatic-coating apparatus;

(*d*) Transformers used with Class 2 and Class 3 circuits, sign and outline lighting, electric discharge lighting, and power-limited fire-protective signaling circuits; and

(*e*) Liquid-filled or dry-type transformers used for research, development, or testing, where effective safeguard arrangements are provided.

(ii) The operating voltage of exposed live parts of transformer installations shall be indicated by warning signs or visible markings on the equipment or structure.

(iii) Dry-type, high fire point liquid-insulated, and askarel-insulated transformers installed indoors and rated over 35kV shall be in a vault.

(iv) If they present a fire hazard to employees, oil-insulated transformers installed indoors shall be in a vault.

(v) Combustible material, combustible buildings and parts of buildings, fire

escapes, and door and window openings shall be safeguarded from fires originating in oil-insulated transformers attached to or adjacent to a building or combustible material.

(vi) Transformer vaults shall be constructed so as to contain fire and combustible liquids within the vault and to prevent unauthorized access. Locks and latches shall be so arranged that a vault door can be readily or quickly opened from the inside.

(vii) Any pipe or duct system foreign to the vault installation shall not enter or pass through a transformer vault.

(viii) Materials shall not be stored in transformer vaults.

(6) *Capacitors.* (i) All capacitors, except surge capacitors or capacitors included as a component part of other apparatus, shall be provided with an automatic means of draining the stored charge after the capacitor is disconnected from its source of supply.

(ii) Capacitors rated over 600 volts, nominal, shall comply with the following additional requirements:

(*a*) Isolating or disconnecting switches (with no interrupting rating) shall be interlocked with the load interrupting device or shall be provided with prominently displayed caution signs to prevent switching load current.

(*b*) For series capacitors, the proper switching shall be assured by use of one of the following:

(*1*) Mechanically sequenced isolating and bypass switches,

(*2*) Interlocks, or

(*3*) Switching procedure prominently displayed at the switching location.

(7) *Storage batteries.* Provisions shall be made for sufficient diffusion and ventilation of gases from the battery to prevent the accumulation of an explosive mixture.

**§ 1910.306 Specific Purpose Equipment and Installations.**

(a) *Electric signs and outline lighting.*—(1) *Disconnecting means.* Signs operated by electronic or electromechanical controllers located external to the sign shall have a disconnecting means located inside the controller enclosure or within sight of the controller location and it shall be capable of being locked in the open position. Such disconnecting means shall have no pole that can be operated independently, and it shall open all ungrounded conductors that supply the controller and sign. All other signs, except the portable type, and all outline lighting installations shall have an externally operable disconnecting means which shall open all ungrounded conductors and shall be within the sight of the sign or outline lighting it controls.

(2) Doors or covers giving access to uninsulated parts of indoor signs or outline lighting exceeding 600 volts and accessible to other than qualified employees shall either be provided with interlock switches to disconnect the primary circuit, or shall be so fastened that the use of other than ordinary tools will be necessary to open them.

(b) *Cranes and hoists.*—(1) *Disconnecting means.* (i) A readily accessible disconnecting means shall be provided between the runway contact conductors and the power supply.

(ii) A disconnecting means, arranged to be locked in the open position, shall be provided in the leads from the runway contact conductors or other power supply on all cranes and monorail hoists.

*Exception: Where monorail hoist or hand-propelled crane bridge installation meets all of the following, the disconnect shall be permited to be omitted.*

*(a) The unit is floor controlled.*

*(b) The unit is within view of the power supply disconnecting means.*

*(c) No fixed work platform has been provided for servicing the unit.*

*Where the disconnecting means is not readily accessible from the crane or monorail hoist operating station, means shall be provided at the operating station to open the power circuit to all motors of the crane or monorail hoist.*

(2) *Control.* A limit switch or other device shall be provided to prevent the load block from passing the safe upper limit of travel of all hoisting mechanisms.

(3) *Clearance.* The dimension of the working space in the direction of access to live parts which are likely to require examination, adjustment, servicing, or maintenance while alive shall be a minimum of 2 feet 6 inches. Where controls are enclosed in cabinets, the door(s) shall either open at least 90 degrees or be removable.

(c) *Elevators, dumbwaiters, escalators, and moving walks.*—(1) *Disconnecting means.* Elevators, dumbwaiters, escalators, and moving walks shall have a single means for disconnecting all ungrounded main power supply conductors for each unit.

Where interconnections between control panels are necessary for operation of the system or multicar installations that remain energized from a source other than the disconnecting means, a warning sign shall be mounted on or adjacent to the disconnecting means. The sign shall be clearly legible and shall read "Warning—Parts of the control panel are not de-energized by this switch."

(2) *Control panels.* Where control panels are not located in the same space as the drive machine, they shall be located in cabinets with doors or panels capable of being locked closed.

(d) *Electric welders—disconnecting means.* (1) A disconnecting means shall be provided in the supply for each motor-generator arc welder, and for each AC transformer and DC rectifier arc welder which is not equiped with a disconnect mounted as an integral part of the welder.

(2) A switch or circuit breaker shall be provided by which each resistance welder and its control equipment can be isolated from the supply ciruit. The ampere rating of this disconnecting means shall not be less than the supply conductor ampacity.

(e) *Data processing systems—disconnecting means.* (1) In data processing rooms, a disconnecting means shall be provided to disconnect the ventilation system servicing that room and the power to all electric equipment in the room except lighting. It shall be controlled from locations readily accessible to the operator and at designated exit doors for the data processing room.

(2) In general building areas, a disconnecting means shall be provided to disconnect all interconnected data processing equipment in the area. It shall be controlled from a location readily accessible to the operator.

(f) *X-ray equipment for nonmedical and nondental use.*—(1) *Disconnecting means.* (i) A disconnecting means shall be provided in the supply circuit. The disconnecting means shall be operable from a location readily accessible from the X-ray control. For equipment connected to a 120-volt branch circuit of 30 amperes or less, a grounding-type attachment plug cap and receptacle of proper rating may serve as a disconnecting means.

(ii) Where more than one piece of equipment is operated from the same high-voltage circuit, each piece or each group of equipment as a unit shall be provided with a high-voltage switch or equivalent disconnecting means. This disconnecting means shall be contructed, enclosed, or located so as to avoid contact by persons with its live parts.

(2) *Control.*—(i) *Radiographic and fluorosopic types.* All radiographic and fluoroscopic-type equipment shall be effectively enclosed or shall have interlocks that de-energize the equipment automatically to prevent ready access to live current-carrying parts.

(ii) *Diffraction and irradiation types.* Diffraction- and irradiation-type equipment shall be provided with a means to indicate when it is energized

unless the equipment or installation is effectively enclosed or is provided with interlocks to prevent access to live current-carrying parts during operation.

(g) *Induction and dielectric heating equipment.*—(1) *Scope.* Paragraphs (g)(2) and (g)(3) of this section cover induction and dielectric heating equipment and accessories for industrial and scientific applications, but not for medical or dental applications or for appliances.

(2) *Guarding and grounding*—(i) *Enclosures.* The converting apparatus (including the DC line) and high-frequency electric circuits (excluding the output circuits and remote-control circuits) shall be completely contained within enclosures of noncombustible material.

(ii) *Panel controls.* All panel controls shall be of dead-front construction.

(iii) *Access to internal equipment.* Where doors are used giving access to voltages from 500 to 1000 volts AC or DC, either door locks or interlocks shall be provided. Where doors are used giving access to voltages of over 1000 volts AC or DC, either mechanical lockouts with a disconnecting means to prevent access until voltage is removed from the cubicle, or both door interlocking and mechanical door locks, shall be provided.

(iv) *Warning labels.* "Danger" labels shall be attached on the equipment, and shall be plainly visible even when doors are open or panels are removed from compartments containing voltages of over 250 volts AC or DC.

(v) *Work applicator shielding.* Protective cages or adequate shielding shall be used to guard work applicators other than induction heating coils. Induction heating coils may be protected by insulation and/or refractory materials. Interlock switches shall be used on all hinged access doors, sliding panels, or other easy means of access to the applicator. All interlock switches shall be connected in such a manner as to remove all power from the applicator when any one of the access doors or panels is open. Interlocks on access doors or panels shall not be required if the applicator is an induction heating coil at DC ground potential or operating at less than 150 volts AC.

(vi) *Disconnecting means.* A readily accessible disconnecting means shall be provided by which each heating equipment can be isolated from its supply circuit.

(3) *Remote control.* Where remote controls are used for applying power, a selector switch shall be provided and interlocked to provide power from only one control point at a time. Switches operating by foot pressure shall be provided with a shield over the contact button to avoid accidental closing of the switch.

(h) *Electrolytic cells*—(1) *Scope.* These provisions for electrolytic cells apply to the installation of the electrical components and accessory equipment of electrolytic cells, electrolytic cell lines, and process power supply for the production of aluminum, cadmium, chlorine, copper, fluorine, hydrogen peroxide, magnesium, sodium, sodium chlorate, and zinc. Not covered by these provisions are cells used as a source of electric energy and for electroplating processes and cells used for the production of hydrogen.

(2) *Definitions applicable to this paragraph.* (i) Cell, Electrolytic: A receptable or vessel in which electrochemical reactions are caused by applying energy for the purpose of refining or producing usable materials.

(ii) *Cell Line:* An assembly of electrically interconnected electrolytic cells supplied by a source of direct-current power.

(iii) *Cell Line Attachments and Auxiliary Equipment:* Cell line attachments and auxiliary equipment include, but are not limited to: Auxiliary tanks; process piping; duct work; structural supports; exposed cell line conductors; conduits and other raceways; pumps; positioning equipment and cell cutout or by-pass electrical devices. Auxiliary equipment includes tools, welding machines, crucibles, and other portable equipment used for operation and maintenance within the electrolytic cell line working zone.

In the cell line working zone, auxiliary equipment includes the exposed conductive surfaces of ungrounded cranes and crane-mounted cell-servicing equipment.

(iv) *Cell Line Working Zone:* The cell line working zone is the space envelope wherein operation or maintenance is normally performed on or in the vicinity of exposed energized surfaces of cell lines or their attachments.

(3) *Application.* Installations covered by paragraph (h) of this section shall comply with the provisions of this section and the provisions of §§ 1910.303, 1910.304, and 1910.305 except as follows:

(i) Overcurrent protection of electrolytic cell DC process power circuits shall not be required to comply with the requirements of paragraph (e) of § 1910.304.

(ii) Equipment located or used within the electrolytic cell line working zone or associated with the cell line DC power circuits shall not be required to comply with the provisions of paragraph (f) of § 1910.304.

(iii) The electrolytic cells, electrolytic cell line conductors, cell line attachments, and the wiring of auxiliary equipment and devices within the cell line working zone shall not be required to comply with the provisions of § 1910.303, and paragraphs (b) and (c) of § 1910.304.

(4) *Disconnecting means.* (i) Where more than one DC cell line process power supply serves the same cell line, a disconnecting means shall be provided on the cell line circuit side of each power supply to disconnect it from the cell line circuit.

(ii) Removable links or removable conductors shall be permitted to be used as the disconnecting means.

(5) *Portable electric equipment.* (i) The frames and enclosures of portable electric equipment used within the cell line working zone shall not be grounded. However, these frames and enclosures shall be permitted to be grounded where the cell line circuit voltage does not exceed 200 volts DC or where guarded.

(ii) Ungrounded portable electric equipment shall be distinctively marked and shall not be interchangeable with grounded portable electric equipment.

(6) *Power supply circuits and receptacles for portable electric equipment.* (i) Circuits supplying power to ungrounded receptacles for hand-held cord-connected equipments shall be electrically isolated from any distribution system supplying areas other than the cell line working zone and shall be ungrounded. Power of these circuits shall be supplied through isolating transformers.

(ii) Receptacles and their mating plugs for ungrounded equipment shall not have provision for a grounding conductor and shall be of a configuration which prevents their use for equipment required to be grounded.

(iii) Receptables on circuits supplied by an isolating transformer with an ungrounded secondary shall be a distinctive configuration, distinctively marked, and shall not be used in any other location in the plant.

(7) *Fixed and portable electric equipment.* (i) AC systems supplying fixed and portable electric equipment within the cell line working zone shall not be required to be grounded.

(ii) Exposed conductive surfaces, such as electric equipment housings, cabinets, boxes, motors, raceways and the like that are within the cell line working zone shall not be required to be grounded.

(iii) Auxiliary electrical devices such as motors, transducers, sensors, control devices, and alarms, mounted on an electrolytic cell or other energized

surface, shall be connected by any of the following means:

(*a*) Multiconductor hard usage or extra hard usage flexible cord;

(*b*) Wire or cable in suitable raceways; or

(*c*) Exposed metal conduit, cable tray, armored cable, or similar metallic systems installed with insulating breaks such that they will not cause a potentially hazardous electrical condition.

(iv) Bonding of fixed electric equipment to the energized conductive surfaces of the cell line, its attachments, or auxiliaries shall be permitted. Where fixed electric equipment is mounted on an energized conductive surface it shall be bonded to that surface.

(8) *Auxiliary nonelectric connections.* Auxiliary nonelectric connections, such as air hoses, water hoses, and the like, to an electrolytic cell, its attachments, or auxiliary equipments shall not have continuous conductive reinforcing wire, armor, braids, and the like. Hoses shall be a nonconductive material.

(9) *Cranes and Hoists.* (i) The conductive surfaces of cranes and hoists that enter the cell line working zone shall not be required to be grounded. The portion of an overhead crane or hoist which contacts an energized electrolytic cell or energized attachments shall be insulated from ground.

(ii) Remote crane of hoist controls which may introduce hazardous electrical conditions into the cell line working zone shall employ one or more of the following systems:

(*a*) Insulated and ungrounded control circuit;

(*b*) Nonconductive rope operator;

(*c*) Pendant pushbutton with nonconductive supporting means and having nonconductive surfaces or ungrounded exposed conductive surfaces; or

(*d*) Radio.

(i) *Electrically driven or controlled irrigation machines*—(1) *Lightning protection.* If an irrigation machine has a stationary point, a driven ground rod shall be connected to the machine at the stationary point for lightning protection.

(2) *Disconnecting means for center pivot irrigation machines.* The main disconnecting means for the machine shall be located at the point of connection of electrical power to the machine and shall be readily accessible and capable of being locked in the open position. A disconnecting means shall be provided for each motor and controller.

(j) *Swimming pools, fountains, and similar installations.*—(1) *Scope.* Paragraphs (j)(2) through (j)(4) of this section apply to electric wiring for and equipment in or adjacent to all swimming, wading, therapeutic, and decorative pools and fountains whether permanently installed or storable, and to metallic auxiliary equipment, such as pumps, filters, and similar equipment. Therapeutic pools in health care facilities are exempt from these provisions.

(2) *Lighting and receptacles.*—(i) *Receptacles.* A single receptacle of the locking and grounding type that provides power for a permanently installed swimming pool recirculating pump motor shall be permitted to be located not less than 5 feet from the inside walls of a pool. All other receptacles on the property shall be located at least 10 feet from the inside walls of a pool. All receptacles shall be protected by ground-fault circuit-interrupters if they are located within 15 feet of the inside walls of the pool.

**Note.**—In determining the above dimensions, the distance to be measured is the shortest path the supply cord of an appliance connected to the receptacles would follow without piercing a floor, wall, or ceiling of a building or other effective permanent barrier.

(ii) *Lighting fixtures and lighting outlets.* (*a*) Lighting fixtures and lighting outlets shall not be installed over a pool or over the area extending 5 feet horizontally from the inside walls of a pool unless 12 feet above the maximum water level. However, existing lighting fixtures and lighting outlets located less than 5 feet measured horizontally from the inside walls of a pool shall be at least 5 feet above the surface of the maximum water level and shall be rigidly attached to the existing structure. They shall also be protected by a ground-fault circuit-interrupter installed in the branch circuit supplying the fixture.

(*b*) Lighting fixtures and lighting outlets installed in the area extending between 5 feet and 10 feet horizontally from the inside walls of a pool shall be protected by a ground-fault circuit-interrupter, unless installed 5 feet above the maximum water level and rigidly attached to the structure adjacent to or enclosing the pool.

(*c*) Lighting fixtures other than underwater fixtures that are within 16 feet measured radially, or any point on the water surface and fixed or stationary equipment rated at 20 amperes or less shall be permitted to be connected with a flexible cord. For other than storable pools, the flexible cord shall not exceed 3 feet in length and shall have a copper equipment grounding conductor not smaller than Number 12 with a grounding-type attachment plug.

(3) *Underwater equipment.* (i) A ground-fault circuit-interrupter shall be installed in the branch circuit supplying underwater fixtures operating at more than 15 volts. Equipment installed underwater shall be approved for the purpose.

(ii) No underwater lighting fixtures shall be installed for operation at over 150 volts between conductors.

(4) *Fountains.* All electric equipment operating at more than 15 volts, including power supply cords, used with fountains shall be protected by ground-fault circuit-interrupters.

**§ 1910.307 Hazardous (Classified) locations.**

(a) *Scope.* This section covers the requirements for electric equipment and wiring in locations which are classified depending on the properties of the flammable vapors, liquids or gases, or combustible dusts or fibers which may be present therein and the likelihood that a flammable or combustible concentration or quantity is present. Hazardous (classified) locations may be found in occupancies such as, but not limited to, the following: Aircraft hangers, gasoline dispensing and service stations, bulk storage plants for gasoline or other volatile flammable liquids, paint-finishing process plants, health care facilities, agricultural or other facilities where excessive combustible dusts may be present, marinas, boat yards, and petroleum and chemical processing plants. Each room, section or area shall be considered individually in determining its classification. These classified locations are assigned six designations as follows:

Class I, Division 1;
Class I, Division 2;
Class II, Division 1;
Class II, Division 2;
Class III, Division 1;
Class III, Division 2.

For definitions of these locations see paragraph (a) of § 1910.399. All other applicable requirements in this subpart shall apply unless modified by provisions of this section.

(b) *General.*—(1) *Approval.* Equipment shall be approved not only for the class of location but also for the ignitible or combustible properties of the specific gas, vapor, dust, or fiber that will be present. Chapter 5 of NFPA 70, the National Electrical Code, lists or defines hazardous gases, vapors, and dusts by "Groups" characterized by their ignitible or combustible properties.

(2) *Intrinsically safe equipment.* Equipment and associated wiring approved as intrinsically safe shall be

permitted in any hazardous (classified) location for which it is approved.

(3) *Conduits.* All conduits shall be threaded and shall be made wrench-tight. Where it is impractical to make a threaded joint tight, a bonding jumper shall be utilized.

(4) *Marking.* Approved equipment not covered in paragraphs (b)(4)(i) through (b)(4)(iii) of this section shall be marked to show the class, group, and operating temperature or temperature range, based on operation in a 40 degrees C ambient, for which it is approved. The temperature marking shall not exceed the ignition temperature of the specific gas or vapor to be encountered.

(i) Equipment of the non-heat-producing type, such as junction boxes, conduit, and fittings and equipment of the heat-production type having a maximum temperature not more than 100 degrees C (212 degrees F), shall not be required to have a marked operating temperature or temperature range.

(ii) Fixed lighting fixtures marked for use in Class I, Division 2 locations only, need not be marked to indicate the group.

(iii) Fixed general-purpose equipment, other than fixed lighting fixtures, which is acceptable for use in Division 2 locations shall not be required to be marked with the class, group, division, or operating temperature.

(5) *Equipment in Division 2 locations.* Equipment that has been approved for a Division 1 location shall be permitted in a Division 2 location of the same class and group.

General-purpose equipment or equipment in general-purpose enclosures shall be permitted to be installed in Division 2 locations if the equipment does not constitute a source of ignition under normal operating conditions.

(c) *Electrical installations.* Equipment, wiring methods, and installations of equipment in classified locations shall be one or more of the following:

(1) Intrinsically safe.

(2) Approved for the classified location.

(3) Of a type and design which provides protection from the hazards arising from the combustibility and flammability of vapors, liquids, gases, dusts, or fibers.

(d) *Guidelines for equipment and installations.* Chapter 5 of NFPA 70, the National Electrical Code, contains guidelines that are appropriate for determining the type and design of equipment and installations with respect to paragraph (c)(3) of this section. The guidelines of this referenced document address electric wiring, equipment, and systems installed in hazardous (classified) locations and contain specific provisions for the following: wiring methods, wiring connections, conductor insulation, flexible cords, sealing and drainage, transformers, capacitors, switches, circuit breakers, fuses, motor controllers, receptacles, attachment plugs, meters, relays, instruments, resistors, generators, motors, lighting fixtures, storage battery charging equipment, electric, electric cranes, electric hoists and similar equipment, utilization equipment, signaling systems, alarm systems, remote control systems, local loud speaker and communication systems, ventilation piping, live parts, lightning surge protection, and grounding.

6. Section 1910.308 would be revised to read as follows:

**§ 1910.308 Special systems.**

(a) *Systems over 600 volts, nominal.* Paragraphs (a)(1) through (a)(4) of this section cover the general requirements for all circuits and equipment operated at over 600 volts.

(1) *Wiring methods for fixed installations.* Aboveground conductors shall be installed in rigid metal conduit, in intermediate metal conduit, in cable trays, in cablebus, in other suitable raceways, or as open runs of metal-clad cable suitable for the use and purpose. Conductors emerging from the ground shall be enclosed in approved raceways. Open runs of non-metallic-sheathed cable or of bare conductors or busbars shall be permitted in locations accessible only to qualified persons. Metallic shielding components for conductors such as tapes, wires, or braids shall be grounded. Open runs of insulated wires and cables having a bare lead sheath or a braided outer covering shall be supported in a manner designed to prevent physical damage to the braid or sheath.

(2) *Interrupting and isolating devices.* (i) Circuit breakers located indoors shall consist of metal-enclosed or fire resistant, cell-mounted units. In locations accessible only to qualified personnel, open mounting of circuit breakers shall be permitted. A means of indicating the open and closed position of circuit breakers shall be provided.

(ii) Fused cutouts installed in buildings or transformer vaults shall be of a type approved for the purpose. They shall be readily accessible for fuse replacement.

(iii) A means shall be provided to completely isolate equipment for inspection and repairs. Isolating means not designed to interrupt the load current of the circuit shall be either interlocked with an approved circuit interrupter or provided with a sign warning against opening them under load.

(3) *Mobile and portable equipment*—(i) *Power cable connections to mobile machines.* A metallic enclosure shall be provided on the mobile machine for enclosing the terminals of the power cable. The enclosure shall include provisions for a solid connection for the ground wire(s) terminal to effectively ground the machine frame. The method of cable termination used shall prevent any strain or pull on the cable from stressing the electrical connections. The enclosure shall have provision for locking so only authorized and qualified persons may open it and shall be marked with a sign warning of the presence of energized parts.

(ii) *Guarding live parts.* All energized switching and control parts shall be enclosed in effectively grounded metal cabinets or enclosures. Circuit breakers and protective equipment shall have the operating means projecting through the metal cabinet or enclosure so these units can be reset without opening locked doors. Enclosures and metal cabinets shall be locked so that only authorized and qualified persons may have access and shall be marked with a sign warning of the presence of energized parts. Collector ring assemblies on revolving-type machines (shovels, draglines, etc.) shall be guarded.

(4) *Tunnel installations*—(i) *Application.* The provisions of paragraph (a)(4) of this section shall apply to installation and use of high-voltage power distribution and utilization equipment which is portable and/or mobile, such as substations, trailers, cars, mobile shovels, draglines, hoists, drills, dredges, compressors, pumps, conveyors, underground excavators, and the like.

(ii) *Conductors.* Conductors in tunnels shall be installed in one or more of the following:

(*a*) Metal conduit or other metal raceway,

(*b*) Type MC cable, or

(*c*) Other approved multiconductor cable.

Conductors shall also be so located or guarded so as to protect them from physical damage. Multiconductor portable cable shall be permitted to supply mobile equipment. An equipment grounding conductor shall be run with circuit conductors inside the metal raceway or inside the multiconductor cable jacket. The equipment grounding conductor shall be permitted to be insulated or bare.

(iii) *Guarding live parts.* Bare terminals of transformers, switches,

motor controllers, and other equipment shall be enclosed to prevent accidental contact with energized parts. Enclosures for use in tunnels shall be drip-proof, weatherproof, or submersible as required by the environmental conditions.

(iv) *Disconnecting means.* A disconnecting means that simultaneously opens all ungrounded conductors shall be installed at each transformer or motor location.

(v) *Grounding and bonding.* All nonenergized metal parts of electric equipment and metal raceways and cable sheaths shall be effectively grounded and bonded to all metal pipes and rails at the portal and at intervals not exceeding 1000 feet throughout the tunnel.

(b) *Emergency power systems*—(1) *Scope.* The provisions for emergency systems apply to circuits, systems, and equipment intended to supply (in the event of failure of the normal supply) power for illumination and special loads.

(2) *Wiring methods.* Emergency circuit wiring shall be kept entirely independent of all other wiring and equipment and shall not enter the same raceway, cable, box, or cabinet with other wiring except where common circuit elements suitable for the purpose are required, or for transferring power from the normal to the energency source.

(3) *Emergency illumination.* Where emergency lighting is required, the system shall be so arranged that the failure of any individual lighting element, such as the burning out of a light bulb, cannot leave any space in total darkness.

(c) *Class 1, Class 2, and Class 3 remote control, signaling, and power-limited circuits*—(1) *Classification.* Class 1, Class 2, or Class 3 remote control, signaling, or power-limited curcuits are characterized by their usage and electrical power limitation which differentiates them from light and power circuits. These circuits are classified in accordance with their respective voltage and power limitations as summarized in paragraphs (c)(1)(i) through (c)(1)(iii) of this section.

(i) *Class 1 Circuits. (a)* A Class 1 power-limited circuit is supplied from a source having a rated output of not more than 30 volts and 1000 volt-amperes.

(*b*) A Class 1 remote control circuit or a Class 1 signaling circuit is one whose voltage does not exceed 600 volts; however, the power output of the source need not be limited.

(ii) *Class 2 and Class 3 Circuits. (a)* Power for Class 2 and Class 3 circuits is limited, either inherently (in which case no overcurrent protection is required) or by a combination of a power source and overcurrent protection.

(*b*) The maximum circuit voltage is 150 volts AC or DC for a Class 2 inherently limited power source, and 100 volts AC or DC for a Class 3 inherently limited power source.

(*c*) The maximum circuit voltage is 30 volts AC and 60 volts DC for a Class 2 power source limited by overcurrent protection, and 150 volts AC or DC for a Class 3 power source limited by overcurrent protection.

(iii) The maximum circuit voltages in paragraphs (c)(1)(i) and (c)(1)(ii) of this section apply to sinusoidal AC or continuous DC power sources, and where wet contact occurrence is not likely.

(2) *Marking.* A Class 2 or Class 3 power supply unit shall be durably marked where plainly visible to indicate the class of supply and its electrical rating.

(d) *Fire protective signaling systems.*—(1) *Classifications.* Fire protective signaling circuits shall be classified either as non-power limited or power limited.

(2) *Power sources.* The power sources for use with fire protective signaling circuits shall be either power limited or nonlimited as follows:

(i) The power supply of non-power-limited fire protective signaling circuits shall have an output voltage not in excess of 600 volts.

(ii) The power for power-limited fire protective signaling circuits shall be either inherently limited, in which no overcurrent protection is required, or limited by a combination of a power source and overcurrent protection.

(3) *Non-power-limited conductor location.* Non-power-limited fire protective signaling circuits and Class 1 circuits shall be permitted to occupy the same enclosure, cable, or raceway provided all conductors are insulated for maximum voltage of any conductor within the enclosure, cable, or raceway. Power supply and fire protective signaling circuit conductors shall be permitted in the same enclosure, cable, or raceway only when connected to the same equipment.

(4) *Power-limited conductor location.* Where open conductors are installed, power-limited fire protective signaling circuits shall be separated at least 2 inches from conductors of any light, power, Class 1, and non-power-limited fire protective signaling circuits unless a special method of conductor separation is employed. Cables and conductors of two or more power-limited fire protective signaling circuits or Class 3 circuits shall be permitted in the same cable, enclosure, or raceway. Conductors of one or more Class 2 circuits shall be permitted within the same cable, enclosure, or raceway with conductors of power-limited fire protective signaling circuits provided that the insulation of Class 2 circuit conductors in the cable, enclosure, or raceway is at least that required for the power-limited fire protective signaling circuits.

(5) *Identification.* fire protective signaling circuits shall be identified at terminal and junction locations in a manner which will prevent unintentional interference with the signaling circuit during testing and servicing. Power-limited fire protective signaling circuits shall be durably marked as such where plainly visible at terminations.

(e) *Communications systems.*—(1) *Scope.* These provisions for communication systems apply to such systems as central station connected and non-central station connected telephone circuits, radio and television receiving and transmitting equipment, including community antenna television and radio distribution systems, telegraph, district messenger, and outside wiring for fire and burglar alarm, and similar central station systems.

(2) *Protective devices.* (i) Communication circuits so located as to be exposed to accidental contact with light or power conductors operating at over 300 volts shall have each circuit so exposed provided with a protector approved for the purpose.

(ii) Each conductor of a lead-in for outdoor antennas shall be provided with an antenna discharge unit or other suitable means that will drain static charges from the antenna system.

(3) *Conductor location.*—(i) *Outside of buildings. (a)* Receiving distribution lead-in or aerial-drop cables attached to buildings and lead-in conductors to radio transmitters shall be so installed as to avoid the possibility of accidental contact with electric light or power conductors.

(*b*) The clearance between lead-in conductors and any lightning protection conductors shall be not less than 6 feet.

(ii) *On poles.* Where practicable, communication conductors on poles shall be located below the light or power conductors and shall not be attached to a crossarm that carries light or power conductors.

(iii) *Inside of buildings.* Indoor antennas, lead-ins, and other communication conductors attached as open conductors to the inside of buildings shall be located at least 2 inches from conductors of any light or power or Class 1 circuits unless a

special method of conductor separation, approved for the purpose, is employed.

(4) *Equipment location.* Outdoor metal structures supporting antennas, as well as self-supporting antennas such as vertical rods or dipole structures, shall be located well away from overhead conductors of electric light and power circuits of over 150 volts to ground so as to avoid the possibility of the antenna or structure falling into or making accidental contact with such circuits.

(5) *Grounding.*—(i) *Lead-in Conductors.* Where exposed to contact with electric light and power conductors, the metal sheath of aerial cables entering buildings shall be gounded or shall be interrupted close to the entrance to the building by an insulating joint or equivalent device. Where protective devices are used, they shall be gounded in an approved manner.

(ii) *Antenna structures.* Masts and metal structures supporting antennas shall be permanently and effectively grounded without splice or connection in the grounding conductor.

(iii) *Equipment enclosures.* Transmitters shall be enclosed in a metal frame or grill or separated from the operating space by a barrier or other equivalent means, all metallic parts of which are effectively connected to ground. All external metal handles and controls accessible to the operating personnel shall be effectively grounded. Unpowered equipment and enclosures shall be considered grounded where connected to an attached coaxial cable whose metallic shield is effectively grounded.

7. Section 1910.309 and new §§ 1910.310 through 1910.398 would be reserved as follows:

**§ 1910.309–1910.330 [Reserved]**

**Safety Related Work Practices**

**§ 1910.331–1910.360 [Reserved]**

**Safety Related Maintenance Requirements**

**§§ 1910.361–1910.380 [Reserved]**

**Safety Requirements for Special Equipment**

**§§ 1910.381–1910.398 [Reserved]**

**§ 1910.308 [Amended]**

8. Paragraph (d)(1) of § 1910.308, *Approved,* would be amended to delete all references to the 1971 National Electrical Code and would be redesignated as paragraph (a)(7) of new § 1910.399.

9. Paragraph (d)(2) of § 1910.308 would be amended by deleting the reference to § 1910.309 (1971 National Electrical Code) and substituting an internal reference to Subpart S. Paragraph (d)(2) of § 1910.399, *Acceptable,* would then be redesignated as paragraph (a)(1) of new § 1910.399.

10. Paragraph (d)(3)(i) of § 1910.308, *Listed,* would be redesignated as paragraph (a)(77) of new § 1910.399.

11. Paragraph (d)(3)(ii) of § 1910.308, *Labeled,* would be redesignated as paragraph (a)(75) of new § 1910.399.

12. Paragraph (d)(3)(iii) of § 19190.308, *Accepted,* would be redesignated as paragraph (a)(2) of new § 1910.399.

13. Paragraph (d)(3)(iv) of § 1910.308, *Certified,* would be redesignated as paragraph (a)(22) of new § 1910.399.

14. Paragraph (d)(3)(v) of § 1910.308, *Utilization Equipment,* would be redesignated as paragraph (a)(127) of new § 1910.399.

15. New § 1910.399 would read as follows:

**Definitions**

**§ 1910.399 Definitions Applicable to this Subpart**

(a) Definitions Applicable to § 1910.302 through 1910.330.

(1) *Acceptable.* [Redesignated]

(2) *Accepted.* [Redesignated]

(3) *Accessible.* (As applied to wiring methods.) Capable of being removed or exposed without damaging the building structure or finish, or not permanently closed in by the structure or finish of the building. *(See "Concealed" and "Exposed.")*

(4) *Accessible.* (As applied to equipment.) Admitting close approach because not guarded by locked doors, elevation, or other effective means. *(See "Readily Accessible.")*

(5) *Ampacity.* Current-carrying capacity of electric conductors expressed in amperes.

(6) *Appliances.* Utilization equipment, generally other than industrial, normally built in standardized sizes or types, which is installed or connected as a unit to perform one or more functions such as clothes washing, air conditioning, food mixing, deep frying, etc.

(7) *Approved.* [Redesignated]

(8) *Approved for the purpose.* Approved for a specific purpose, environment, or application described in a particular standard requirement.

Suitability of equipment or materials for a specific purpose, environment or application may be determined by a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation as part of its listing and labeling program. *(See "Labeled" or "Listed.")*

(9) *Armored cable.* Type AC armored cable is a fabricated assembly of insulated conductors in a flexible metallic enclosure.

(10) *Askarel.* A generic term for a group of nonflammable synthetic chlorinated hydrocarbons used as electrical insulating media. Askarels of various compositional types are used. Under arcing conditions of the gases procuced, while consisting predominantly of noncombustible hydrogen chloride, can include varying amounts of combustible gases depending upon the askarel type.

(11) *Attachment plug (Plug Cap)(Cap).* A device which, by insertion in a receptacle, establishes connection between the conductors of the attached flexible cord and the conductors connected permanently to the receptacle.

(12) *Automatic.* Self-acting, operating by its own mechanism when actuated by some impersonal influence, as, for example, a change in current strength, pressure, temperature, or mechanical configuration.

(13) *Bare Conductor.* See under "Conductor."

(14) *Bonding.* The permanent joining of metallic parts to form an electrically conductive path which will assure electrical continuity and the capacity to conduct safely any current likely to be imposed.

(15) *Bonding jumper.* A relable conductor to assure the required electrical conductivity between metal parts required to be electrically connected.

(16) *Branch circuit.* The circuit conductors between the final overcurrent device protecting the circuit and the outlet(s).

(17) *Building.* A structure which stands alone or which is cut off from adjoining structures by fire walls with all openings therein protected by approved fire doors.

(18) *Cabinet.* An enclosure designed either for surface or flush mounting, and provided with a frame, mat, or trim in which a swinging door or doors are or may be hung.

(19) *Cable tray system.* A cable tray system is a unit or assembly of units or sections, and associated fittings, made of metal or other non-combustible materials forming a rigid structural system used to support cables. Cable tray systems include ladders, troughs, channels, solid bottom tray, and other similar structures.

(2) *Cablebus.* Cablebus is an approved assembly of insulated conductors with fittings and conductor terminations in a completely enclosed, ventilated, protective metal housing.

(21) *Center pivot irrigation machine.* A center pivot irrigation machine is a

multi-motored irrigation machine which revolves around a central pivot and employs alignment switches or similar devices to control individual motors.

(22) *Certified.* [Redesignated]

(23) *Circuit breaker*—(i) *(600 Volts nominal, or less).* A device designed to open and close a circuit by nonautomatic means and to open the cicuit automatically on a predetermined overcurrent without injury to itself when properly applied within its rating.

(ii) *(Over 600 volts, nominal).* A switching device capable of making, carrying and breaking currents under normal circuit conditions, and also making, carrying for a specified time, and breaking currents under specified abnormal circuit conditions, such as those of short circuit.

(24) *Class I locations.* Class I locations are those in which flammable gases or vapors are or may be present in the air in quantities sufficient to produce explosive or ignitible mixtures. Class I locations include those specified in (i) and (ii) following:

(i) *Class I, Division 1.* A Class I, Division 1 location is a location: (*a*) In which hazardous concentrations of flammable gases or vapors exist continuously, intermittently, or periodically under normal operating conditions; or (*b*) in which hazardous concentrations of such gases or vapors may exist frequently because of repair or maintenance operations or becasue of leakage; or (*c*) in which breakdown or faulty operation of equipment or processess might release hazardous concentrations of flammable gases or vapors, and might also cause simultaneous failure of electric equipment.

**Note.**—This classification usually includes locations where volatile flammable liquids or liquefied flammable gases are transferred from one container to another; interiors of spray booths and areas in the vicinity of spraying and painting operations where volatile flammable solvents are used; locations containing open tanks or vats of volatile flammable liquids; drying rooms or compartments for the evaporation of flammable solvents; locations containing fat and oil extraction equipment using volatile flammable solvents; portions of cleaning and dyeing plants where hazardous liquids are used; gas generator rooms and other portions of gas manufacturing plants where flammable gas may escape; inadequately ventilated pump rooms for flammable gas or for volatile flammable liquids; the interiors of refrigerators and freezers in which volatile flammable materials are stored in open, lightly stoppered, or easily ruptured containers; and all other locations where hazardous concentrations of flammable vapors or gases are likely to occur in the course of normal operations.

*(ii) Class I, Division 2.* A Class I, Division 2 location is a location: (*a*) In which volatile flammable liquids or flammable gases are handled, processed, or used, but in which the hazardous liquids, vapors, or gases will normally be confined within closed containers or closed systems from which they can escape only in case of accidental rupture or breakdown of such containers or systems, or in case of abnormal operation of equipment; or (*b*) in which hazardous concentrations of gases or vapors are normally prevented by positive mechanical ventilation, and which might become hazardous through failure or abnormal operations of the ventilating equipment; or (*c*) that is adjacent to a Class I, Division 1 location, and to which hazardous concentrations of gases or vapors might occasionally be communicated unless such communication is prevented by adequate positive-pressure ventilation from a source of clean air, and effective safeguards against ventilation failure are provided.

**Note.**—This classification usually includes locations where volatile flammable liquids or flammable gases or vapors are used, but which, in the judgment of the authority having jurisdiction, would become hazardous only in case of an accident or of some unusual operating condition. The quantity of hazardous materials that might escape in case of accident, the adequacy of ventilating equipment, the total area involved, and the record of the industry or business with respect to explosions or fires are all factors that merit consideration in determining the classification and extent of each location.

Piping without valves, checks, meters, and similar devices would not ordinarily introduce a hazardous condition even though used for hazardous liquids or gases. Locations used for the storage of hazardous liquids or of liquefied or compressed gases in sealed containers would not normally be considered hazardous unless subject to other hazardous conditions also.

Electrical conduits and their associated enclosures separated from process fluids by a single seal or barrier are classed as a Division 2 location if the outside of the conduit and enclosures is a nonhazardous location.

(25) *Class II Locations.* Class II locations are those that are hazardous because of the presence of combustible dust. Class II locations include those specified in (i) and (ii) following:

(i) *Class II, Division 1.* A Class II, Division 1 location is a location: *(a)* In which combustible dust is or may be in suspension in the air continuously, intermittently, or periodically under normal operating conditions, in quantities sufficient to produce explosive or ignitible mixtures; or *(b)* where mechanical failure or abnormal operation of machinery or equipment might cause such explosive or ignitible mixtures to be produced, and might also provide a source of ignition through simultaneous failure of electric equipment, operation of protection devices, or from other causes, or *(c)* in which combustible dusts of an electrically conductive nature may be present.

**Note.**—This classification usually includes the working areas of grain handling and storage plants; rooms containing grinders or pulverizers, cleaners, graders, scalpers, open conveyors or spouts, open bins or hoppers, mixers or blenders, automatic or hopper scales, packing machinery, elevator heads and boots, stock distributors, dust and stock collectors (except all-metal collectors vented to the outside), and all similar dust-producing machinery and equipment in grain-processing plants, starch plants, sugar-pulverizing plants, malting plants, hay-grinding plants, and other occupancies of similar nature; coal-pulverizing plants (except where the pulverizing equipment is essentially dust-tight); all working areas where metal dusts and powers are produced, processed, handled, packed, or stored (except in tight containers); and all other similar locations where combustible dust may, under normal operating conditions, be present in the air in quantities sufficient to produce explosive or ignitible mixtures.

Combustible dust which are electrically nonconductive include dusts produced in the handling and processing of grain and grain products, pulverized sugar and cocoa, dried egg and milk powers, pulverized spices, starch and pastes, potato and woodflour, oil meal from beans and seed, dried hay, and other organic materials which may produce combustible dusts when processed or handled. Electrically conductive nonmetallic dusts include dusts from pulverized coal, coke, carbon black, and charcoal. Dusts containing magnesium or aluminum are particularly hazardous and the use of extreme precaution will be necessary to avoid ignition and explosion.

(ii) *Class II, Division 2.* A Class II, Division 2 location is a location in which combustible dust will not normally be in suspension in the air or will not be likely to be thrown into suspension by the normal operation of equipment or apparatus in quantities sufficient to produce explosive or ignitible mixtures, but: *(a)* Where deposits or accumulations of such combustible dust may be sufficient to interfere with the safe dissipation of heat from electric equipment or apparatus; or *(b)* where such deposits or accumulations of combustible dust on, in, or in the vicinity of electric equipment might be ignited by arcs, sparks, or burning material from such equipment.

**Note.**—Locations where dangerous concentrations of suspended dust would not be likely, but where dust accumulations might form on, or in the vicinity of electric equipment, would include rooms and areas

containing only closed spouting and conveyors, closed bins or hoppers, or machines and equipment from which appreciable quantities of dust would escape only under abnormal operating conditions; rooms or areas adjacent to a Class II, Division 1 location as described in (a)(21)(i) above, and into which explosive or ignitible concentrations of suspended dust might be communicated only under abnormal operating conditions; rooms or areas where the formation of explosive or ignitible concentrations of suspended dust is prevented by the operation of effective dust control equipment; warehouses and shipping rooms where dust-producing materials are stored or handled only in bags or containers; and other similar locations.

(26) *Class III Locations.* Class III locations are those that are hazardous because of the presence of easily ignitible fibers or flyings but in which such fibers or flyings are not likely to be in suspension in the air in quantities sufficient to produce ignitible mixtures. Class III locations include those specified in (i) and (ii) following:

(i) *Class III, Division 1.* A Class III, Division 1 location is a location in which easily ignitible fibers or materials producing combustible flyings are handled, manufactured, or used.

Note.—Such locations usually include some parts of rayon, cotton, and other textile mills; combustible fiber manufacturing and processing plants; cotton gins and cotton-seed mills; flax-processing plants; clothing manufacturing plants; woodworking plants, and establishments and industries involving similar hazardous processes or conditions.

Easily ignitible fibers and flyings include rayon, cotton (including cotton linters and cotton waste), sisal or henequen, istle, jute, hemp, tow, cocoa fiber, oakum, baled waste kapok, Spanish moss, excelsior, and other materials of similar nature.

(ii) *Class III, Division 2.* A Class III, Division 2 location is a location in which easily ignitible fibers are stored or handled.

*Exception: In process of manufacture.*

(27) *Collector ring.* A collector ring is an assembly of slip rings for transferring electrical energy from a stationary to a rotating member.

(28) *Concealed.* Rendered inaccessible by the structure or finish of the building. Wires in concealed raceways are considered concealed, even though they may become accessible by withdrawing them. *(See "Accessible. (As applied to wiring methods.)")*

(29) *Conductor.*—(i) *Bare.* A conductor having no covering or electrical insulation whatsoever. *(See "Conductor, Covered.")*

(ii) *Covered.* A conductor encased within material of composition or thickness that is not recognized by this Subpart S as electrical insulation. *(See "Conductor, Bare.")*

(iii) *Insulated.* A conductor encased within material of composition and thickness that is recognized by this Subpart S as electrical insulation.

(30) *Conduit body.* A separate portion of a conduit or tubing system that provides access through a removable cover(s) to the interior of the system at a junction of two or more sections of the system or at a terminal point of the system.

Boxes such as FS and FD or larger cast or sheet metal boxes are not classified as conduit bodies.

(31) *Controller.* A device or group of devices that serves to govern, in some predetermined manner, the electric power delivered to the apparatus to which it is connected.

(32) *Cooking unit, counter-mounted.* A cooking appliance designed for mounting in or on a counter and consisting of one or more heating elements, internal wiring, and built-in or separately mountable controls. *(See "Oven, Wall-Mounted.")*

(33) *Covered conductor.* See under "Conductor."

(34) *Cutout.* An assembly of a fuse support with either a fuseholder, fuse carrier, or disconnecting blade. The fuseholder or fuse carrier may include a conducting element (fuse link), or may act as the disconnecting blade by the inclusion of a nonfusible member.

(35) *Cutout Box.* An enclosure designed for surface mounting and having swinging doors or covers secured directly to and telescoping with the walls of the box proper. *(See "Cabinet.")*

(36) *Damp location.* See Under "Location."

(37) *Dead front.* Without live parts exposed to a person on the operating side of the equipment.

(38) *Device.* A unit of an electrical system which is intended to carry but not utilize electric energy.

(39) *Dielectric heating.* Dielectric heating is the heating of a nominally insulating material due to its own dielectric losses when the material is placed in a varying electric field.

(40) *Disconnecting means.* A device, or group of devices, or other means by which the conductors of a circuit can be disconnected from their source of supply.

(41) *Disconnecting (or Isolating) switch.* A mechanical switching device used for isolating a circuit or equipment from a source of power.

(42) *Dry location.* See under "Location."

(43) *Electric sign.* A fixed, stationary, or portable self-contained, electrically illuminated utilization equipment with words or symbols designed to convey information or attract attention.

(44) *Enclosed.* Surrounded by a case, housing, fence or walls which will prevent persons from accidentally contacting energized parts.

(45) *Enclosure.* The case or housing of apparatus, or the fence or walls surrounding an installation to prevent personnel from accidentally contacting energized parts, or to protect the equipment from physical damage.

(46) *Equipment.* A general term including material, fittings, devices, appliances, fixtures, apparatus, and the like, used as a part of, or in connection with, an electrical installation.

(47) *Equipment grounding conductor.* See "Grounding Conductor, Equipment."

(48) *Explosion-proof Apparatus.* Apparatus enclosed in a case that is capable of withstanding an explosion of a specified gas or vapor which may occur within it and of preventing the ignition of a specified gas or vapor surrounding the enclosure by sparks, flashes, or explosion of the gas or vapor within, and which operates at such an external temperature that a surrouning flammable atmosphere will not be ignited thereby.

(49) *Exposed.* (As applied to live parts.) Capable of being inadvertently touched or approached nearer than a safe distance by a person. It is applied to parts not suitably guarded, isolated, or insulated. (*See "Accessible" and "Concealed."*)

(50) *Exposed.* (As applied to wiring methods.) On or attached to the surface of behind panels designed to allow access. (*See "Accessible. (As applied to wiring methods.")*)

(51) *Exposed.* For the purposes of paragraph (e) of § 910.308 the word exposed means that the circuit is in such a positon that in case of failure of supports or insulation, contact with another circuit may result.

(52) *Externally operable.* Capable of being operated without exposing the operator to contact with live parts.

(53) *Feeder.* All circuit conductors between the service equipment, or the generator switchboard of an isolated plant, and the final branch-circuit overcurrent device.

(54) *Fitting.* An accessory such as a locknut, bushing, or other part of a wiring system that is intended primarily to perform a mechanical rather than an electrical function.

(55) *Fuse. (Over 600 volts, nominal).* An overcurrent protective device with a circuit opening fusible part that is heated and severed by the passage of overcurrent through it.

A fuse comprises all the parts that form a unit capable of performing the

prescribed function. It may or may not be the complete device necessary to connect it into an electrical circuit.

(56) *Ground.* A conducting connection, whether intentional or accidental, between an electrical circuit or equipment and the earth, or to some conducting body that serves in place of the earth.

(57) *Grounded.* Connected to earth or to some conducting body that serves in place of the earth.

(58) *Grounded, Effectively (Over 600 Volts, nominal).* Permanently connected to earth through a ground connection of sufficiently low impedance and having sufficient ampacity that ground fault current which may occur cannot build up to voltages dangerous to personnel.

(59) *Ground conductor.* A system or circuit conductor that is intentionally grounded.

(60) *Grounding conductor.* A conductor used to connect equipment or the grounded circuit of a wiring system to a grounding electrode or electrodes.

(61) *Grounding conductor, equipment.* The conductor used to connect the non-current-carrying metal parts of equipment, raceways, and other enclosures to the system grounded conductor and/or the grounding electrode conductor at the service equipment or at the source of a separately derived system.

(62) *Grounding electrode conductor.* The conductor used to connect the grounding electrode to the equipment grounding conductor and/or to the grounded conductor of the circuit at the service equipment or at the source of a separately derived system.

(63) *Ground-fault circuit-interrupter.* A device whose functiojn is to interrupt the electric circuit to the load when a fault current to ground exceeds some predetermined value that is less than that required to operate the overcurrent protective device of the supply circuit.

(64) *Guarded.* Covered, shielded, fenced, enclosed, or otherwise protected by means of suitable covers, casings, barriers, rails, screens, mats, or platforms to remove the likelihood of approach or contact by persons or objects to a point of danger.

(65) *Health care facilities.* Buildings or portions of buildings and mobile homes that contain, but are not limited to, hospitals, nursing homes, extended care facilities, clinics, and medical and dental offices, whetrher fixed or mobile.

(66) *Heating equipment.* For the purposes of paragraph (g) of section 1910.306, the term heating equipment includes any equipment used for heating purposes whose heat is generated by induction or dielectric methods.

(67) *Hoistway.* Any shaftway, hatchway, well hole, or other vertical opening opr space in which an elevator or dumbwaiter is designed to operate.

(68) *Identified.* Identified, as used in this subpart in reference to a conductor or its terminal, means that such conductor or terminal is to be recognized as grounded.

(69) *Induction heating.* Induction heating is the heating of a nominally conductive material due to its own $I^2R$ losses when the material is placed in a varying electromagnetic field.

(70) *Insulted conductor.* See under "Conductor."

(71) *Interrupter switch.* (Over 600 Volts, Nominal). A switch capable of making, carrying, and interrupting specified currents.

(72) *Irrigation machine.* An irrigation machine is an electrically driven or controlled machine, with one or more motrors, not hand portable, and used primarily to transport and distribute water for agricultural purposes.

(73) *Isolated.* Not readily accessible to persons unless special means for access are used.

(74) *Isolated power system.* A system comprising an isolating transformer or its equivalent, a line isolation monitor, and its ungrounded circuit conductors.

(75) *Labeled.* [Redesignated].

(76) *Lighting outlet.* An outlet intended for the direct connection of a lampholder, a lighting fixture, or a pendant cord terminating in a lampholder.

(77) *Listed.* [Redesignated].

(78) *Location.*

(i) *Damp location.* Partially protected locations under canopies, marquees, roofed open porches, and like locations, and interior locations subject to moderate degrees of moisture, such as some basements, some barns, and some cold-storage warehouses.

(ii) *Dry location.* A location not normally subject to dampness or wetness. A location classified as dry may be temporarily subject to dampness or wetness, as in the case of a building under construction.

(iii) *Wet location.* Installations underground or in concrete slabs or masonry in direct contact with the earth, and locations subject to saturation with water or other liquids, such as vehicle-washing areas, and locations exposed to weather and unprotected.

(79) *Medium voltage cable.* Type MV medium voltage cable is a single or multiconductor solid dielectric insulated cable rated 2000 volts or higher.

(80) *Metal-clad cable.* Type MC cable is a factory assembly of one or more conductors, each individually insulated and enclosed in a metallic sheath of interlocking tape, or a smooth or corrugated tube.

(81) *Mineral-insulated metal-sheathed cable.* Type MI mineral-insulated metal-sheathed cable is a factory assembly of one or more conductors insulated with a highly compressed refractory mineral insulation and enclosed in a liquidtight and gastight continuous copper sheath.

(82) *Mobile X-ray.* X-ray equipment mounted on a permanent base with wheels and/or casters for moving while completely assembled.

(83) *Nonmetallic-sheathed cable.* Nonmetallic-sheathed cable is a factory assembly of two or more insulated conductors having an outer sheath of moisture resistant, flame-retardant, nonmetallic material and of the following types:

(i) *Type NM.* The overall covering has a flame-retardant and moisture-resistant finish.

(ii) *Type NMC.* The overall covering is flame-retardant, moisture-resistant, fungus-resistant, and corrosion-resistant.

(84) *Oil (Filled) cutout.* (Over 600 Volts, Nominal). A cutout in which all or part of the fuse support and its fuse link or disconnecting blade are mounted in oil with complete immersion of the contacts and the fusible portion of the conducting element (fuse link), so that arc interruption by serving of the fuse link or by opening of the contacts will occur under oil.

(85) *Open wiring on insulators.* Open wiring on insulators is an exposed wiring method using cleats, knobs, tubes, and flexible tubing for the protection and support of single insulated conductors run in or on buildings, and not concealed by the building structure.

(86) *Outlet.* A point of the wiring system at which current is taken to supply utilization equipment.

(87) *Outline lighting.* An arrangement of incandescent lamps or electric discharge tubing to outline or call attention to certain features such as the shape of a building or the decoration of a window.

(88) *Oven, wall-mounted.* An oven for cooking purposes designed for mounting in or on a wall or other surface and consisting of one or more heating elements, internal wiring, and built-in or separately mountable controls. (*See "Cooking Unit", "Counter-Mounted."*)

(89) *Overcurrent.* Any current in excess of the rated current of equipment or the ampacity of a conductor. It may result from overload (*see definition*), short circuit, or ground fault.

A current in excess of rating may be accommodated by certain equipment and conductors for a given set of

conditions. Hence the rules for overcurrent protection are specific for particular situations.

(90) *Overload.* Operation of equipment in excess of normal, full load rating, or of a conductor in excess of rated ampacity which, when it persists for a sufficient length of time, would cause damage or dangerous overheating. A fault, such as a short circuit or ground fault, is not an overload. (*See "Overcurrent."*)

(91) *Panelboard.* A single panel or group of panel units designed for assembly in the form of a single panel; including buses, automatic overcurrent devices, and with or without switches for the control of light, heat, or power circuits; designed to be placed in a cabinet or cutout box placed in or against a wall or partition and accessible only from the front. (*See "Switchboard."*)

(92) *Permanently installed decorative fountains and reflection pools.* Those that are constructed in the ground, on the ground, or in a building in such a manner that the pool cannot be readily disassembled for storage and are served by electrical circuits of any nature. These units are primarily constructed for their aesthetic value and not intended for swimming or wading.

(93) *Permanently installed swimming pools, wading and therapeutic pools.* Those that are constructed in the ground, on the ground, or in a building in such a manner that the pool cannot be readily disassembled for storage whether or not served by electrical circuits of any nature.

(94) *Portable X-ray.* X-ray equipment designed to be hand-carried.

(95) *Power and control tray cable.* Type TC power and control tray cable is a factory assembly of two or more insulated conductors, with or without associated bare or covered grounding conductors under a nonmetallic sheath, approved for installation in cable trays, in raceways, or where supported by a messenger wire.

(96) *Power fuse. (Over 600 volts, nominal).* See "Fuse."

(97) *Power-limited tray cable.* Type PLTC nonmetallic-sheathed power limited tray cable is a factory assembly of two or more insulated conductors under a nonmetallic jacket.

(98) *Power outlet.* An enclosed assembly which may include receptacles, circuit breakers, fuseholders, fused switches, buses and watt-hour meter mounting means; intended to supply and control power to mobile homes, recreational vehicles or boats, or to serve as a means for distributing power required to operate mobile or temporarily installed equipment.

(99) *Premises wiring (system).* That interior and exterior wiring, including power, lighting, control, and signal circuit wiring together with all of its assoicated hardware, fittings, and wiring devices, both permanently and temporarily installed, which extends from the load end of the service drop, or load end of the service lateral conductors to the outlet(s). Such wiring does not include wiring internal to applicances, fixtures, motors, controllers, motor control centers, and similar equipment.

(100) *Qualified person.* One familiar with the construction and operation of the equipment and the hazards involved.

(101) *Raceway.* A channel designed expressly for holding wires, cables, or busbars, with additional functions as permitted in this subpart.

Raceways may be of metal or insulating material, and the term includes rigid metal conduit, rigid nonmetallic conduit, intermediate metal conduit, liquidtight flexible metal conduit, flexible metallic tubing, flexible metal conduit, electrical metallic tubing, underfloor raceways, cellular concrete floor raceways, cellular metal floor raceways, surface raceways, wireways, and busways.

(102) *Readily accessible.* Capable of being reached quickly for operation, renewal, or inspections, without requiring those to whom ready access is requisite to climb over or remove obstacles or to resort to portable ladders, chairs, etc. (*See "accessible."*)

(103) *Receptacle.* A receptacle is a contact device installed at the outlet for the connection of a single attachment plug.

A single receptacle is a single contact device with no other contact device on the same yoke. A multiple receptacle is a single device containing two or more receptacles.

(104) *Receptacle outlet.* An outlet where one or more receptacles are installed.

(105) *Remote-control circuit.* Any electric circuit that controls any other circuit through a relay or an equivalent device.

(106) *Sealable equipment.* Equipment enclosed in a case or cabinet that is provided with a means of sealing or locking so that live parts cannot be made accessible without opening the enclosure. The equipment may or may not be operable without opening the enclosure.

(107) *Separately derived system.* A premises wiring system whose power is derived from generator, transformer, or converter winding and has no direct electrical connection, including a solidly connected grounded circuit conductor, to supply conductors originating in another system.

(108) *Service.* The conductors and equipment for delivering energy from the electricity supply system to the wiring system of the premises served.

(109) *Service cable.* Service conductors made up in the form of a cable.

(110) *Service conductors.* The supply conductors that extend from the street main or from transformers to the service equipment of the premises supplied.

(111) *Service drop.* The overhead service conductors from the last pole or other aerial support to and including the splices, if any, connecting to the service-entrance conductors at the building or other structure.

(112) *Service-entrance cable.* Service-entrance cable is a single conductor or multiconductor assembly provided with or without an overall covering, primarily used for services and of the following types:

(i) *Type SE,* having a flame-retardant, moisture-resistant covering, but not required to have inherent protection against mechanical abuse.

(ii) *Type USE,* recognized for underground use, having a moisture-resistant covering, but not required to have a flame-retardant covering or inherent protection against protection against mechanical abuse. Single-conductor cables having an insulation specifically approved for the purpose do not require an outer covering.

(113) *Service-entrance conductors, overhead system.* The service conductors between the terminals of the service equipment and a point usually outside the building, clear or building walls, where joined by tap or splice to the service drop.

(114) *Service-entrance conductors, underground system.* The service conductors between the terminals of the service equipment and the point of connection to the service lateral.

Where service equipment is located outside the building walls, there may be no service-entrance conductors, or they may be entirely outside the building.

(115) *Service equipment.* The necessary equipment, usually consisting of a circuit breaker or switch and fuses, and their accessories, located near the point of entrance of supply conductors to a building or other structure, or an otherwise defined area, and intended to constitute the main control and means of cutoff of the supply.

(116) *Service raceway.* The raceway that encloses the service-entrance conductors.

(117) *Shielded nonmetallic-sheathed cable.* Type SNM, shielded non-metallic-sheathed cable is a factory assembly of two or more insulated conductors in an extruded core of moisture-resistant, flame-resistant nonmetallic material, covered with an overlapping spiral metal tape and wire shield and jacketed with an extruded moisture-, flame-, oil-, corrosion-, fungus-, and sunlight-resistant nonmetallic material.

(118) *Show window.* Any window used or designed to be used for the display of goods or advertising material, whether it is fully or partly enclosed or entirely open at the rear and whether or not it has a platform raised higher than the street floor level.

(119) *Sign.* See "Electric Sign."

(120) *Signaling circuit.* Any electric circuit that energizes signaling equipment.

(121) *Special permission.* The written consent of the authority having jurisdiction.

(122) *Storable swimming or wading pool.* A pool with a maximum dimension of 15 feet and a maximum wall height of 3 feet and is so constructed that it may be readily disassembled for storage and reassembled to its original integrity.

(123) *Switchboard.* A large single panel, frame, or assembly of panels which have switches, buses, instruments, overcurrent and other protective devices mounted on the face or back or both. Switchboards are generally accessible from the rear as well as from the front and are not intended to be installed in cabinets. (*See "Panelboard."*)

(124) *Switches.* (i) *General-use switch.* A switch intended for use in general distribution and branch circuits. It is rated in amperes, and it is capable of interrupting its rated current at its rated voltage.

(ii) *General-use snap switch.* A form of general-use switch so constructed that it can be installed in flush device boxes or on outlet box covers, or otherwise used in conjunction with wiring systems recognized by this subpart.

(iii) *Isolating switch.* A switch intended for isolating and electric circuit from the source of power. It has no interrupting rating, and it is intended to be operated only after the circuit has been opened by some other means.

(iv) *Motor-circuit switch.* A switch, rated in horsepower, capable of interrupting the maximum operating overload current of a motor of the same horsepower rating as the switch at the rated voltage.

(125) *Switching devices.* (Over 600 Volts, Nominal). Devices designed to close and/or open one or more electric circuits. Included in this category are circuit breakers, cutouts, disconnecting (or isolating) switches, disconnecting means, interrupter switches, and oil (filled) cutouts.

(126) *Transportable X-ray.* X-ray equipment to be installed in a vehicle or that may be readily disassembled for transport in a vehicle.

(127) *Utilization equipment.* [Reserved].

(128) *Utilization system.* A utilization system is one which provides electric power and light for employee workplaces.

(129) *Ventilated.* Provided with a means to permit circulation of air sufficient to remove an excess of heat, fumes, or vapors.

(130) *Volatile flammable liquid.* A flammable liquid having a flash point below 38 degrees C (100 degrees F) or whose temperature is above its flash point.

(131) *Voltage (of a Circuit).* The greatest root-mean-square (effective) difference of potential between any two conductors of the circuit concerned.

(132) *Voltage, nominal.* A nominal value assigned to a circuit or system for the purpose of conveniently designating its voltage class (as 120/240, 480Y/277, 600, etc.).

The actual voltage at which a circuit operates can vary from the nominal within a range that permits satisfactory operation of equipment.

(133) *Voltage to ground.* For grounded circuits, the voltage between the given conductor and that point or conductor of the circuit that is grounded; for ungrounded circuits, the greatest voltage between the given conductor and any other conductor of the circuit.

(134) *Watertight.* So constructed that moisture will not enter the enclosure.

(135) *Weatherproof.* So constructed or protected that exposure to the weather will not interfere with successful operation.

Rainproof, raintight, or watertight equipment can fulfill the requirements for weatherproof where varying weather conditions other than wetness, such as snow, ice, dust, or temperature extremes, are not a factor.

(136) *Wet location.* See under "Location."

(137) *Wireways.* Wireways are sheet-metal troughs with hinged or removable covers for housing and protecting electric wires and cable and in which conductors are laid in place after the wireway has been installed as a complete system.

(b) [Reserved].

(c) [Reserved].

(d) [Reserved].

**Appendix A—Explanatory Data [Reserved]**

**Appendix B—Tables, Notes, and Charts [Reserved]**

**Appendix C—Reference Documents**

ANSI A17.1–71 Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks.
ANSI B9.1–71 Safety Code for Mechanical Refrigeration.
ANSI B30.2–76 Safety Code for Overhead and Gantry Cranes.
ANSI B30.3–75 Hammerhead Tower Cranes.
ANSI B30.4–73 Safety Code for Portal, Tower, and Pillar Cranes.
ANSI B30.5–68 Safety Code for Crawler, Locomotive, and Truck Cranes.
ANSI B30.6–77 Derricks.
ANSI B30.7–77 Base Mounted Drum Hoists.
ANSI B30.8–71 Safety Code for Floating Cranes and Floating Derricks.
ANSI B30.11–73 Monorail Systems and Underhung Cranes.
ANSI B30.12–75 Handling Loads Suspended from Rotorcraft.
ANSI B30.13–77 Controlled Mechanical Storage Cranes.
ANSI B30.15–73 Safety Code for Mobile Hydraulic Cranes.
ANSI B30.16–73 Overhead Hoists.
ANSI C2–77 National Electrical Safety Code.
ANSI C33.27–74 Safety Standard for Outlet Boxes and Fittings for Use in Hazardous Locations, Class I, Groups A, B, C, and D, and Class II, Groups E, F, and G.
ANSI K61.1–72 Safety Requirements for the Storage and Handling of Anhydrous Ammonia.
ASTM D2155–66 Test Method for Autoignition Temperature of Liquid Petroleum Products.
ASTM D3176–74 Method for Ultimate Analysis of Coal and Coke.
ASTM D3180–74 Method for Calculating Coal and Coke Analyses from As Determined to Different Bases.
IEEE 463–77 Standard for Electrical Safety Practices in Electrolytic Cell Line Working Zones.
NFPA 20–76 Standard for the Installation of Centrifugal Fire Pumps.
NFPA 30–78 Flammable and Combustible Liquids Code.
NFPA 32–74 Standard for Drycleaning Plants.
NFPA 33–73 Standard for Spray Application Using Flammable and Combustible Materials.
NFPA 34–74 Standard for Dip Tanks Containing Flammable or Combustible Liquids.
NFPA 35–76 Standard for the Manufacture of Organic Coatings.
NFPA 36–74 Standard for Solvent Extraction Plants.
NFPA 40–74 Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film.
NFPA 56A–73 Standard for the Use of Inhalation Anesthetics (Flammable and Nonflammable).
NFPA 56F–74 Standard for Nonflammable Medical Gas Systems.
NFPA 58–76 Standard for the Storage and Handling of Liquified Petroleum Gases.

NFPA 59–76 Standard for the Storage and Handling of Liquified Petroleum Gases at Utility Gas Plants.
NFPA 70–78 National Electrical Code.
NFPA 70C–74 Hazardous Locations Classification.
NFPA 70E Standard for the Electrical Safety Requirements for Employee Workplaces.
NFPA 71–77 Standard for the Installation, Maintenance, and Use of Central Station Signaling Systems.
NFPA 72A–75 Standard for the Installation, Maintenance, and Use of Local Protective Signaling Systems for Watchman, Fire Alarm, and Supervisory Service.
NFPA 72B–75 Standard for the Installation, Maintenance, and Use of Auxiliary Protective Signaling Systems for Fire Alarm Service.
NFPA 72C–75 Standard for the Installation, Maintenance, and Use of Remote Station Protective Signaling Systems.
NFPA 72D–75 Standard for the Installation, Maintenance, and Use of Proprietary Protective Signaling Systems for Watchman, Fire Alarm, and Supervisory Service.
NFPA 72E–74 Standard for Automatic Fire Detectors.
NFPA 74–75 Standard for Installation, Maintenance, and Use of Household Fire Warning Equipment.
NFPA 76A–73 Standard for Essential Electrical Systems for Health Care Facilities.
NFPA 77–72 Recommended Practice on Static Electricity.
NFPA 80–77 Standard for Fire Doors and Windows.
NFPA 86A–73 Standard for Ovens and Furnaces; Design, Location and Equipment.
NFPA 88A–73 Standard for Parking Structures.
NFPA 88B–73 Standard for Repair Garages.
NFPA 91–73 Standard for the Installation of Blower and Exhaust Systems for Dust, Stock, and Vapor Removal, or Conveying.
NFPA 101–78 Code for Safety to Life from Fire in Buildings and Structures. (Life Safety Code).
NFPA 325M–69 Fire-Hazard Properties of Flammable Liquids, Gases, and Volatile Solids.
NFPA 493–75 Standard for Intrinsically Safe Apparatus for Use in Class I Hazardous Locations and Its Associated Apparatus.
NFPA 496–74 Standard for Purged and Pressurized Enclosures for Electrical Equipment in Hazardous Locations.
NFPA 497–75 Recommended Practice for Classification of Class I Hazardous Locations for Electrical Installations in Chemical Plants.
NFPA 505–75 Fire Safety Standard for Powered Industrial Trucks Including Type Designations and Areas of Use.

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September 25, 1979

Part III

# Consumer Product Safety Commission

## Withdrawal of Proposed Rules and Notices of Possible Need for Standards

## CONSUMER PRODUCT SAFETY COMMISSION

### [16 CFR Parts 1500, 1501, 1600, and 1700]

### Withdrawal of Proposed Rules and Notices of Possible Need for Standards

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Withdrawal of certain proposed rules and notices of possible need for standards.

**SUMMARY:** The Commission withdraws certain proposed rules and notices of possible need for standards that were issued by other agencies before the creation of the Commission and for which the Commission is now responsible. The Commission reviewed these items during the general review of its regulatory activities, and has decided these rules and notices are no longer needed.

**FOR FURTHER INFORMATION CONTACT:** See person listed in individual documents.

**SUPPLEMENTARY INFORMATION:** When the Consumer Product Safety Commission was created, in addition to its responsibilities under the newly-enacted Consumer Product Safety Act, the Commission assumed responsibilities that previously had been administered by other agencies under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, the Flammable Fabrics Act, and the Refrigerator Safety Act. Thus, a number of regulations administered by the Commission were issued by other agencies, and there are a number of proposed rules and notices of possible need for standards that were published by other agencies but for which the Commission is now responsible.

The Commission is now reviewing its regulatory activities to determine if any of its regulations are no longer necessary or should be revised. In the course of this review, the Commission has concluded that a number of proposed rules and notices of possible need for standards that were published by the Commission's predecessor agencies should be withdrawn.

Accordingly, the following thirteen **Federal Register** notices withdraw the previous rules and notices that the Commission has determined are now unnecessary. These notices terminate or affect the following proceedings:

1. Finding of possible need for flammability standard for children's underwear and dresses.
2. Finding of possible need for flammability standard for blankets.
3. Proposed amendment of regulations applicable to combustible and flammable hazardous substances.
4. Proposed amendment to first aid labeling regulations for products containing benzene, toluene, xylene, or petroleum distillates.
5. Proposed labeling requirements for paints containing lead and other heavy metals.
6. Proposed revision of test for eye irritants.
7. Proposed regulation to prohibit distribution of hazardous substances in containers identifiable as food, drug, or cosmetic containers.
8. Proposed revision of test for skin irritants.
9. Proposed labeling requirements for toys to identify manufacturer, distributor, or importer.
10. Proposed regulation to ban certain toy chests.
11. Proposed labeling requirements for aerosol containers using fluorocarbons as propellants.
12. Proposal to add informed consent requirement.
13. Proposed requirements for special packaging for promotional samples.

The specific reasons for the withdrawal of each proposal or notice of possible need are explained in the notice that accomplishes the withdrawal.

Dated: September 19, 1979.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 79-29666 Filed 9-24-79; 8:45 am]

BILLING CODE 6355-01-M

### [16 CFR Part 1600]

### Children's Wearing Apparel (Underwear and Dresses); Withdrawal of Finding of Possible Need for a Flammability Standard for Children's Underwear and Dresses

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Withdrawal of notice of finding of possible need.

**SUMMARY:** The Consumer Product Safety Commission withdraws a notice of finding of possible need for a flammability standard for children's dresses and underwear previously published by the Secretary of Commerce. The notice is being withdrawn at this time in order to clear up any ambiguity that may exist concerning whether the notice is still in effect as to dresses and underwear. Also, to the extent the notice may still be applicable to children's underwear, the notice is withdrawn because it appears that in fire incidents involving children, underwear is usually not the first garment to ignite and because the Commission has no information showing that a need exists at this time for a flammability standard for children's underwear in these sizes. To the extent that the notice may still be applicable to children's dresses, the notice is being withdrawn because it is not known, at this time, that a standard for children's dresses is needed.

**FOR FURTHER INFORMATION CONTACT:** Phyllis Buxbaum, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, phone number 301-492-6626.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of January 24, 1970 (35 FR 1019), the Secretary of Commerce published a finding of possible need for a flammability standard for children's sleepwear, underwear, and dresses in sizes up to and including 6X. The possible need for a flammability standard was supported by data showing that these garments were involved in fires at a rate significantly exceeding the proportion of children of ages one through five in the total population.

After reviewing the comments received in response to the notice of possible need for a flammability standard, the Secretary of Commerce published a proposed standard for flammability of children's sleepwear in sizes 0 through 6X in the **Federal Register** of November 17, 1970 (35 FR 17670). In response to comments and other available information which indicated that in most flammability incidents involving children, underwear is not the first garment to ignite, the proposed flammability standard for children's sleepwear specifically excluded diapers and underwear from its coverage.

The proposed flammability standard for children's sleepwear also did not apply to children's dresses. However, the proposal did not expressly withdraw the finding of possible need for a flammability standard applicable to children's dresses.

In the **Federal Register** of July 29, 1971 (36 FR 14062), the Secretary of Commerce issued the Standard for the Flammability of Children's Sleepwear for garments in sizes 0 through 6X. Like the proposed standard, the final standard specifically exempted diapers and underwear and did not apply to children's dresses. However, the finding

of possible need published on January 24, 1970, to the extent that it was applicable to children's underwear or dresses in sizes 0 through 6X, was not expressly withdrawn. The Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3–71) now appears at 16 CFR Part 1615.

On May 14, 1973, functions under the Flammable Fabrics Act (15 U.S.C. 1191–1204) exercised by the Secretary of Commerce, the Secretary of Health, Education and Welfare, and the Federal Trade Commission were transferred to the Consumer Product Safety Commission by section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079(b)). Therefore, the Commission is now responsible for determining whether there is a need for a flammability standard applicable to children's underwear or dresses.

After reviewing the available information, the Commission has no reason to believe that a need exists at this time for a flammability standard for children's underwear in sizes 0 through 6X. Therefore, the Commission concludes that the notice of finding of possible need for a standard published in the **Federal Register** on January 24, 1970, should be withdrawn to the extent that it applies to underwear.

At the present, the Commission plans to review the need for additional standards on flammable fabrics. As part of this investigation, the need for a standard on children's dresses will be determined. Since it is not known, at this time, whether such a standard is needed, the Commission concludes that the notice of a finding of possible need published on January 24, 1970, should be withdrawn to the extent that it applies to children's dresses in sizes 0 through 6X. Any new or amended standard applicable to children's garments other than sleepwear which may result from work now in progress will be proposed in a new proceeding following the procedures for the development of flammability standards which appear at 16 CFR Part 1607.

### Conclusion

Therefore, the Consumer Product Safety Commission withdraws the notice of finding of possible need for a flammability standard that was published by the Secretary of Commerce on January 24, 1970 (35 FR 1019), to the extent that it is applicable to children's underwear and children's dresses in sizes 0 through 6X.

Dated: September 19, 1979.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 79-29667 Filed 9-24-79; 8:45 am]

BILLING CODE 6355-01-M

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**[16 CFR Part 1600]**

## Blankets; Withdrawal of Notice of Finding of Possible Need for a Flammability Standard for Blankets

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Withdrawal of notice of finding of possible need.

**SUMMARY:** The Consumer Product Safety Commission is withdrawing a notice of a finding of possible need for a flammability standard for blankets which was published by the Secretary of Commerce. This action is taken because the highly flammable blankets that were available at the time of the notice are no longer being sold.

**FOR FURTHER INFORMATION CONTACT:** Phyllis Buxbaum, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C., phone number (301) 492–6626.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of June 10, 1970 (35 FR 8943), the Secretary of Commerce published a notice of a finding that a flammability standard may be needed for blankets. The possible need for a flammability standard for blankets was based on the highly flammable high rayon or high cotton content blankets then available on the commercial market. Subsequent voluntary action by manufacturers and importers has led to the removal of these blankets from commerce.

On May 14, 1973, functions of the Secretary of Commerce, the Secretary of Health, Education and Welfare, and the Federal Trade Commission under the Flammable Fabrics Act (15 U.S.C. 1191–1204) were transferred to the Consumer Product Safety Commission by section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079(b)). Therefore, the Consumer Product Safety Commission has the responsibility to decide what further action to take concerning blankets.

In 1974, the National Bureau of Standards reviewed data concerning blankets involved in fire incidents and concluded that at that time blankets were not involved in a large number of fire incidents. No evidence of a serious flammability problem with blankets has been observed since the highly flammable high rayon or high cotton content blankets were removed from the marketplace. The Commission concludes that a need no longer exists for a mandatory flammability standard for blankets and that the notice of need should be withdrawn. However, if the Commission finds at any time in the future that a need for a flammability standard for blankets may exist, it will begin a new proceeding following the procedures at 16 CFR Part 1607 for the development of flammability standards.

### Conclusion

Therefore, having considered the notice of possible need for a flammability standard for blankets, the comments received in response to that notice, and other relevant material, the Commission hereby withdraws the notice of a finding of possible need for a flammability standard for blankets published on June 10, 1970 (35 FR 8943)

Dated: September 19, 1979.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 79-29668 Filed 9-24-79; 8:45 am]

BILLING CODE 6355-01-M

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**[16 CFR Part 1500]**

## Hazardous Substances; Withdrawal of Proposed Amendment of Regulations Applicable to Combustible and Flammable Hazardous Substances

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Consumer Product Safety commission is withdrawing a proposal to amend regulations under the Federal Hazardous Substances Act to define the term "combustible" as it applies to solid materials and to contents of self-pressurized containers. The proposal would also have revised portions of existing regulations which prescribe tests for flammability of solid materials and contents of self-pressurized containers and define substances that generate pressure. The Commission is withdrawing the proposal because it has determined that the proposed definition of "combustible solids" is overly broad and because there are insufficient data available to show that the other proposed requirements are suitable. The Commission will continue work to develop appropriate tests for flammability and combustibility of solid materials and contents of self-pressurized containers.

**FOR FURTHER INFORMATION CONTACT:** Charles Johnson, Directorate for

Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C., 20207, telephone (301) 492–6400.

**SUPPLEMENTARY INFORMATION:** The Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261–1274, imposes labeling and other requirements for certain products which are intended for household use and which contain or consist of a "hazardous substance." As enacted in 1960, section 2(f)(1)(A) of the FHSA (15 U.S.C. 1261(f)(1)(A)) defined the term "hazardous substance" to include any substance or mixture of substances which is "flammable," the FHSA was originally administered by the Secretary of Health, Education, and Welfare.

Thereafter, the FHSA was amended by the Child Protection and Toy Safety Act of 1969 (Pub. L. 91–113). Among the changes made by this act was one which broadened the definition of "hazardous substance" in section 2(f)(1)(A) to include any substance or mixture of substances which is "flammable *or combustible,*" and which "may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonable foreseeable handling or use * * *." [emphasis added]. The 1969 amendments to the FHSA contained a general definition of "combustible" and also authorized the issuance of regulations to define the term "combustible" as it applies to solid materials and the contents of aerosol (self-pressurized) containers and to establish test methods for determining the flammability and combustibility of solid materials and the contents of aerosol containers.

In the **Federal Register** of August 18, 1970 (35 FR 13137), the Commissioner of Food and Drugs, acting under a delegation from the Secretary of Health, Education, and Welfare, proposed to amend the regulations implementing the FHSA to restate the statutory general definition of "combustible" and to define the term "combustible" as it applies to solid materials and the contents of aerosol containers. The proposed amendment would also have made some changes to the regulations which define "extremely flammable" and "flammable" contents of aerosol containers and substances which generate pressure and which prescribe the test methods for determining the flammability of solid materials. At that time, the regulations which were the subject of the proposed amendment appeared at 21 CFR 191.1, 191.14, and 191.65.

On May 14, 1973, section 30(a) of the Consumer Product Safety Act (Pub. L. 92–573, 86 Stat. 1231, 15 U.S.C. 2079(a)) transferred the responsibility for issuing regulations under the FHSA from the Secretary of Health, Education, and Welfare to the Consumer Product Safety Commission (CPSC). Therefore, the CPSC is now responsible for deciding what action to take on the proposal of August 18, 1970.

In 1973, the CPSC revised and reissued the regulations under the FHSA as 16 CFR Part 1500. The regulations which were the subject of the amendment proposed on August 18, 1970, now appear at 16 CFR 1500.3(c)(6), 1500.44, and 1500.45.

Several comments received in response to the proposal of August 18, 1970, observed that the definition of the term "combustible solids" contained in the proposed amendment would have the effect of causing almost all household products made from solid materials to be classified as "combustible hazardous substances." However, most of the products so classified would not present a risk of injury to consumers because of combustibility in their ordinary and customary use. Commenters cited pencils and telephones as examples of such products. Nevertheless, under the FHSA, classification of a product as a combustible hazardous substance would require precautionary labeling to warn of the hazard unless the CPSC issued regulations to exempt the product from the labeling requirement. The Commission agrees with these comments that the proposal was too broad in this regard.

Since the proposal, the statutory general definition of "combustible" has been deleted from the FHSA (Pub. L. 95–631, § 9, November 10, 1978, 92 Stat. 3747). The proposed definition of combustible aerosol contents was a modification of the existing definition for flammable aerosol contents, but no specific rationale was developed to justify the flame projection range specified in the definition. The definition, and the other amendments to the regulations that were proposed to clarify or improve the existing definitions and test methods, represented the Commissioner's best knowledge of desirable improvements of these regulations, but the information that was developed to evaluate the suitability of the requirements is insufficient for the Comission to proceed with the issuance of final requirements.

In any event, in view of the period of time since the proposal, the Commission believes it would be appropriate to repropose any of the proposed amendments before issuing the requirements in final form.

For the reasons given above, the CPSC is withdrawing the amendment proposed on August 18, 1970. However, the CPSC will work to develop appropriate definitions and tests for determining the combustibility of solid materials and contents of aerosol containers and may, in the future, propose appropriate amendments of the regulations under the FHSA.

### Conclusion

Therefore, having considered the proposal, the comments received in response to it, and other available information, the CPSC hereby withdraws the proposal to amend the FHSA regulations that was published on August 18, 1970 (35 FR 13137).

Dated: September 19, 1979.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 79-29669 Filed 9-24-79; 8:45 am]

BILLING CODE 6355-01-M

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**[16 CFR Part 1500]**

## Hazardous Substances; Withdrawal of Proposed Amendment to First Aid Labeling Regulations for Products Containing Benzene, Toluene, Xylene, or Petroleum Distillates

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Consumer Product Safety Commission withdraws a proposed amendment to the Federal Hazardous Substances Act regulations which prescribe first aid labeling requirements for products containing benzene, toluene, xylene, or petroleum distillates. The proposed amendment is withdrawn because the proposal did not adequately identify the substances to which the amendment would apply. The Commission will continue to evaluate these labeling regulations and may propose an amendment at a later date.

**FOR FURTHER INFORMATION CONTACT:** Charles Jacobson, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492–6400.

**SUPPLEMENTARY INFORMATION:** Section 2(p)(1) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261(p)(1), requires household products which contain hazardous substances to be labeled with information needed by consumers to avoid illness or injury when using those products, and with

any necessary or appropriate first aid instructions. Section 3(b) of the FHSA (15 U.S.C. 1262(b)) authorizes issuance of regulations to impose special labeling requirements in those cases in which the general requirements of section 2(p)(1) are not adequate to protect the public health and safety.

Among the products which are subject to special labeling regulations are those which contain more than 5 percent of benzene, or more than 10 percent of toluene, xylene, and petroleum distillates such as kerosene, mineral seal oil, naphtha, gasoline, mineral spirits, stoddard solvent, and related petroleum distillates. These special labeling regulations provide that household products containing 10 percent or more by weight of benzene, toluene, xylene, or other petroleum distillates shall be labeled with the following first aid instructions: "If swallowed, do not induce vomiting. Call physician immediately."

The instructions not to induce vomiting are required in order to minimize the possibility that vomit containing these substances might be drawn into the lungs and cause inflammation of the lung tissue. These labeling instructions are appropriate if the only hazard presented by the product is that which results from the presence of benzene, toluene, xylene, or the other petroleum distillates.

However, some products contain other highly poisonous substances in addition to benzne, toluene, xylene, or the other petroleum distillates. If such a product were swallowed, and if vomiting were not induced, death, blindness, or other serious injury might result from retention of the product in the digestive tract. In such a case, retention of the product in the digestive tract may pose a risk of injury which is far more serious than the risk of injury associated with vomiting.

In the **Federal Register** of June 8, 1971 (36 FR 11040), the Commissioner of Food and Drugs proposed to amend the special labeling regulations applicable to products containing benzene, toluene, xylene, and the other petroleum distillates. At that time, these regulations appeared at 21 CFR 191.7(b)(3). The proposed amendment would have added language to the regulations so that if the product contains other acutely toxic substances in such concentrations that retaining the product in the digestive tract would present a greater risk of injury than might result from inducing vomiting, the instructions would recommend that vomiting should be induced. This action was taken under authority delegated from the Secretary of Health, Education, and Welfare, who was then responsible for administering the Federal Hazardous Substances Act.

In response to the proposal of June 8, 1971, comments were received from three manufacturers of chemical products and two associations of manufacturers of such products. All comments agreed that in some cases the first aid instructions for products containing benzene, toluene, xylene, or the other petroleum distillates should include directions to induce vomiting. However, all commenters objected that the proposed amendment did not adequately or sufficiently describe those products for which first aid instructions to induce vomiting should be required.

On May 14, 1973, section 30(a) of the Consumer Product Safety Act (Pub. L. 92–573, 86 Stat. 1231, 15 U.S.C. 2079(a)) transferred the responsibility for issuing regulations under the FHSA from the Secretary of Health, Education, and Welfare to the Consumer Product Safety Commission (CPSC). Therefore, the CPSC is now responsible for deciding what action to take on the proposal of June 8, 1971.

In 1973, the CPSC revised and reissued the regulations under the FHSA as 16 CFR Part 1500. The special labeling requirements for products containing benzene, toluene, xylene, or the other petroleum distillates now appear at 16 CFR 1500.14(b)(3).

The CPSC believes that the existing labeling requirements for those products are inadequate and should be revised to require appropriate first aid instructions for products which consist of a mixture of a highly toxic substance and benzene, toluene, xylene, or petroleum distillates.

However, the CPSC also believes that the comments received in response to the proposal of June 8, 1971, express valid objections. Additionally, the CPSC observes that it has been 8 years since the Commissioner of Food and Drugs proposed the amendment to revise the labeling requirements for products containing benzene, toluene, xylene, or petroleum distillates. The CPSC believes that fairness to all interested parties requires another proposal of any amendment to the labeling requirements of 16 CFR 1500.14(b)(3) so that interested parties may have a further opportunity for comment. For these reasons, the CPSC is withdrawing the amendment proposed on June 8, 1971. However, the CPSC will continue to evaluate the first aid labeling requirements for products which contain benzene, toluene, xylene, or petroleum distillates. On May 17, 1979, the CPSC announced the appointment of a nine-member Toxicological Advisory Board. The advisory board will review labeling requirements that have been issued under the FHSA and recommend appropriate revisions. The CPSC will request the advisory board to give priority to consideration of appropriate first aid labeling requirements for products which contain benzene, toluene, xylene, or petroleum distillates.

### Conclusion

Therefore, having considered the proposed amendment, comments received in response to the proposal, and other relevant material, the Commission hereby withdraws the proposed amendment to the Federal Hazardous Substances Act regulations published on June 8, 1971 (36 FR 11040).

Dated: September 19, 1979.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 79–29670 Filed 9–24–79; 8:45 am]

BILLING CODE 6355–01–M

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**[16 CFR Part 1500]**

## Withdrawal of Proposed Regulation to Require Labeling of Paints Containing Lead and Other Heavy Metals

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Withdrawal of proposed regulation.

**SUMMARY:** The Consumer Product Safety Commission withdraws a proposed regulation that would have required labeling of paints intended for household use containing lead or other heavy metals to warn against eating or chewing the dried film of such paints and to warn against use of such paints on toys and other children's articles or on surfaces of buildings occupied by, or accessible to, children. The proposal is withdrawn because paint containing more than 0.06 percent lead is currently banned and because there are no available data sufficient to show a substantial risk caused by children eating or chewing dried paint containing other heavy metals.

**FOR FURTHER INFORMATION CONTACT:** Charles M. Jacobson, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, phone number (301) 492–6400.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of November 2, 1971 (36 FR 20985), the Commissioner of Food and Drugs proposed a regulation under the Federal Hazardous Substances Act (15 U.S.C. 1261–1274) which would have classified any paint intended for household use which contains lead

compounds, antimony, arsenic, cadmium, mercury, selenium, or barium compounds, in excess of specified limits, as "hazardous substances," and would have required any such paint to be labeled to state that it may be harmful if eaten or chewed and that such paint should not be used on toys or other children's articles, or on surfaces of buildings occupied by, or accessible to, children.

On the same date, at 36 FR 20988, the Commissioner of Food and Drugs proposed a second regulation under provisions of the Federal Hazardous Substances Act to ban the distribution in interstate commerce of any paint intended for household use which contains lead, except for minute traces which could not reasonably be kept out of such a product. The proposed banning regulation was published in response to a petition submitted by Joseph A. Page, Anthony L. Young, Mary Win O'Brien, William F. Ryan, Jack Newfield, and Edmund O. Rothschild, M.D.

After consideration of all comments received in response to the two proposed regulations, the Commissioner of Food and Drugs determined that precautionary labeling of paints containing lead would not effectively eliminate the hazard of lead poisoning presented by those paints. In the **Federal Register** of March 11, 1972 (37 FR 5229), the Commissioner of Food and Drugs issued a final regulation to ban any paint intended for household use which is shipped in interstate commerce between December 31, 1972, and December 31, 1973, with a lead content (calculated as the metal) in excess of 0.5 percent of the weight of the contained solids or dried paint film. The final regulation also banned any paint intended for household use which is shipped in interstate commerce after December 31, 1973, and which has a lead content (calculated as the metal) in excess of 0.06 percent of the total weight of the contained solids or dried paint film.

The Commissioner of Food and Drugs stated that no final regulation concerning paints intended for household use containing metals other than lead would be issued until additional information concerning the use of such metals in paints was considered and evaluated. The proposed labeling regulation published on November 21, 1971, at 36 FR 20985 was not withdrawn.

Because of objections filed to the provision lowering the level to 0.06 percent pursuant to section 701(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 371(e), the Food and Drug Administration stayed the portions of the regulation lowering the level to 0.06 percent (37 FR 16078; August 10, 1972). The 0.5 percent level was unaffected.

On May 14, 1973, responsibility for administration and enforcement of the Federal Hazardous Substances Act was transferred to the Consumer Product Safety Commission by section 30(a) of the Consumer Product Safety Act (15 U.S.C. 2029(a)). Therefore, the Commission now has the responsibility for deciding what action to take concerning the proposed labeling rule for paints intended for household use and containing lead or other heavy metals.

The Consumer Product Safety Act (15 U.S.C. 2051–2081) also transferred the responsibility for determining whether a ban of paint containing less than 0.5 percent lead was appropriate from Food and Drug Administration to the Commission. On September 1, 1977, after proceedings under the Consumer Product Safety Act and the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801–4846), the Commission issued a final regulation declaring paint and other similar surface-coating materials containing lead or lead compounds, and in which the lead content (calculated as lead metal) is over 0.06 percent by weight of the total nonvolatile content of the paint or the weight of the dried paint film, to be banned hazardous products (42 FR 44193). This ban became effective on February 28, 1978.

Because of the ban limiting the allowable lead content of paints, the Commission believes that the hazard posed by lead in paint has been reduced to the point that cautionary labeling addressing this hazard is unnecessary. In addition, the Commission has not received information which would be a sufficient basis for issuance of a regulation to require cautionary labeling of any paint intended for household use containing heavy metals other than lead. For these reasons, the Commission believes that the regulation proposed on November 2, 1971, to require labeling of such paints should be withdrawn.

### Conclusion

Therefore, the Commission hereby withdraws the proposed regulation to require cautionary labeling of paints intended for household use containing lead and other heavy metals published by the Commissioner of Food and Drugs in the **Federal Register** of November 21, 1971 at 36 FR 20985.

Dated: September 19, 1979.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 29671 Filed 9-24-79; 8:45 am]

BILLING CODE 6355-01-M

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**[16 CFR Part 1500]**

## Hazardous Substances; Withdrawal of Proposed Revision of Test for Eye Irritants

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Consumer Product Safety Commission is withdrawing a proposed amendment to a regulation which implements the Federal Hazardous Substances Act by prescribing a test for eye irritants. The proposed amendment was published in 1972. Since that time, an interagency task force has developed guidelines for tests on eye irritants which may be suitable for use by the Commission and four other Federal agencies. Since the Commission's staff intends to evaluate these guidelines, and the Commission may propose an amendment to the regulation prescribing the test for eye irritants based on guidelines for such tests developed by the interagency task force, the previous proposal is being withdrawn.

**FOR FURTHER INFORMATION CONTACT:** Joseph McLaughlin, Jr. Ph.D., Directorate for Engineering and Science, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492–6498.

**SUPPLEMENTARY INFORMATION:** The Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261–1274, imposes labeling and other requirements for certain products which are intended for household use and which contain or consist of a "hazardous substance." The term "hazardous substance" is defined in section 2(f)(1)(A) of the FHSA (15 U.S.C. 1261(f)(1)(A)) to include any substance or mixture of substances which is "an irritant," and which "may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use * * *". The term "irritant" is defined in section 2(j) of the FHSA and in regulations issued under the FHSA to supplement the statutory definition. These regulations also set forth test methods for determining if a substance is a skin irritant or an eye irritant. The Federal Hazardous Substances Act was originally administered by the Secretary of Health, Education, and Welfare.

In the **Federal Register** of April 28, 1972 (37 FR 8534), the Commissioner of Food and Drugs, acting under authority delegated to him by the Secretary of Health, Education, and Welfare, proposed an amendment to the regulations which prescribe the test for determining if a substance is an eye irritant. In the notice proposing the amendment, the Commissioner observed that changes in the test method may be needed to more realistically simulate the manner by which eye contact which could reasonably be expected to occur when consumers are exposed to household products. At that time, the eye irritant test appeared at 21 CFR 191.12.

On May 14, 1973, section 30(a) of the Consumer Product Safety Act, 15 U.S.C. 2079(a), transferred the responsibility for issuing regulations under the FHSA from the Secretary of Health, Education, and Welfare to the Consumer Product Safety Commission (CPSC). Therefore, the CPSC is now responsible for deciding what action to take on the proposal of December 19, 1972.

In 1973, the CPSC revised and reissued the regulations under the FHSA as 16 CFR Part 1500. The test for determining if a substance is an eye irritant now appears at 16 CFR 1500.42.

Since acquiring responsibility for the administration and enforcement of the FHSA, the CPSC has entered into a working partnership with four other agencies of the Federal government. This working group is called the Interagency Regulatory Liaison Group (IRLG). The other members of the IRLG are the Environmental Protection Agency, the Food and Drug Administration, the Occupational Safety and Health Administration, and the Food Safety and Quality Service of the Department of Agriculture.

For the past several months, a task force comprised of representatives from the five IRLG agencies has been developing guidelines for tests for eye irritants which may be suitable for use by all five IRLG agencies. The IRLG guidelines also reflect developments in the fields of medicine and the biological sciences which have occurred since publication of the amendment to the FHSA regulation proposed by the Commissioner of Food and Drugs on April 28, 1972. The CPSC's staff intends to evaluate these guidelines, and the Commission may propose an amendment to the existing test procedure for eye irritants contained in the FHSA regulations (16 CFR 1500.42) based on the IRLG guidelines.

For these reasons, the CPSC is withdrawing the proposed amendment to the test for eye irritants published on December 19, 1972.

Until the CPSC publishes a proposed amendment to the test for eye irritants, receives and reviews comments on the proposal, and issues an amendment on a final basis, the provisions of 16 CFR 1500.42, which set forth the present test for determining if a substance is an eye irritant, will remain in effect.

### Conclusion

Therefore, having considered the proposed amendment and material relating to that proposal, the CPSC hereby withdraws the proposed amendment published on April 28, 1972 (37 FR 8534).

Dated: September 19, 1979.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 79-29672 Filed 9-24-79; 8:45 am]

BILLING CODE 6355-01-M

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**[16 CFR Part 1500]**

## Withdrawal of Proposed Rule to Prohibit Marketing of Hazardous Substances in Containers Which May be Identified as Food, Drug, or Cosmetic Containers

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Commission is withdrawing a regulation the Food and Drug Administration proposed in 1972 to prohibit the marketing of hazardous substances in any container which is identifiable as a container for foods, drugs, or cosmetics. The Commission is taking this action because the proposed rule would merely duplicate a self-explanatory section of the Federal Hazardous Substances Act.

**FOR FURTHER INFORMATION CONTACT:** Charles Jacobson, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C., phone (301) 492-6400.

**SUPPLEMENTAL INFORMATION:** Under authority delegated to him by the Secretary of Health, Education, and Welfare, the Commissioner of Food and Drugs published in the **Federal Register** of November 10, 1972 (37 FR 23924), a proposed rule under the Federal Hazardous Substances Act to prohibit the marketing of any hazardous substance in any container which is identifiable as a container for food, drugs, or cosmetics.

On May 14, 1973, authority to issue regulations implementing the Federal Hazardous Substances Act was transferred to the Consumer Product Safety Commission by section 30(a) of the Consumer Product Safety Act, 15 U.S.C. 2079(a). Therefore, the Commission has the responsibility of deciding what action to take on the proposal.

The regulation proposed on November 10, 1972, would not impose any requirement beyond the requirements contained in section 4(f) of the Federal Hazardous Substances Act. The proposed regulation merely recites the provisions of that section and lists examples of the kinds of containers whose use is prohibited for the packaging of products which are hazardous substances. After review of the provisions of section 4(f) of the act and the text of the regulation proposed on November 10, 1972, the Commission believes that the text of section 4(f) is self-explanatory, and that additional clarification or guidance concerning the purpose or requirements of that section is not needed.

### Conclusion

Therefore, having considered the proposed rule and comments and other relevant material, the Commission hereby withdraws the proposed rule regarding hazardous substances marketed in containers identifiable as food, drug, or cosmetic containers published on November 10, 1972 (37 FR 23924).

Dated: September 19, 1979.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 79-29673 Filed 9-24-79; 8:45 am]

BILLING CODE 6355-01-M

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**[16 CFR Part 1500]**

## Hazardous Substances; Withdrawal of Proposed Revision of Test for Skin Irritants

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Consumer Product Safety Commission is withdrawing a proposed amendment to a regulation which implements the Federal Hazardous Substances act by prescribing a test for skin irritants. The proposed amendment was published in 1972. Since that time, an interagency task force has developed uniform guidelines for tests on skin irritants which could be used by the Commission and four other Federal agencies. Since the Commission's staff intends to evaluate these guidelines, and the Commission may propose an amendment to the regulation prescribing

the test for skin irritants based on guidelines for such tests developed by the interagency task force, the previous proposal is being withdrawn.

**FOR FURTHER INFORMATION CONTACT:** Joseph McLaughlin, Jr., Ph. D., Directorate for Engineering and Science, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone (301) 492–6486.

**SUPPLEMENTARY INFORMATION:** The Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261–1274, imposes labeling and other requirements for certain products which are intended for household use and which contain or consist of a "hazardous substance." The term "hazardous substance" is defined in section 2(f)(1)(A) of the FHSA (15 U.S.C. 1261(f)(1)(A)) to include any substance or mixture of substances which is "an irritant," and which "may cause substantial personal injury or substantial personal illness during or as a proximate result of any customary or reasonably foreseeable handling or use * * *". The term "irritant" is defined in section 2(j) of the FHSA, and in regulations issued under the FHSA to supplement the statutory definition. These regulations also set forth test methods for determining if a substance is a skin irritant or an eye irritant. The Federal Hazardous Substances Act was originally administered by the Secretary of Health, Education, and Welfare.

In the **Federal Register** of December 19, 1972 (37 FR 27635), the Commissioner of Food and Drugs, acting under authority delegated to him by the Secretary of Health, Education, and Welfare, proposed an amendment to the regulations which prescribe the test for determining if a substance is a skin irritant. In the notice proposing the amendment, the Commissioner observed that changes in the test method may be needed to more realistically simulate skin contact which could reasonably be expected to occur when consumers are exposed to household products. At that time, the skin irritant test appeared at 21 CFR 191.11.

On May 14, 1973, section 30(a) of the Consumer Product Safety Act (Pub. L. 92–573, 86 Stat. 1231, 15 U.S.C. 2079(a)) transferred the responsibility for issuing regulations under the FHSA from the Secretary of Health, Education, and Welfare to the Consumer Product Safety Commission (CPSC). Therefore, the CPSC is now responsible for deciding what action to take on the proposal of December 19, 1972.

In 1973, the CPSC revised and reissued the regulations under the FHSA as 16 CFR Part 1500. The test for determining if a substance is a skin irritant now appears at 16 CFR 1500.41.

Since acquiring responsibility for the administration and enforcement of the FHSA, the CPSC has entered into a working partnership with four other agencies of the Federal government. This working group is called the Interagency Regulatory Liaison Group (IRLG). The other members of the IRLG are the Environmental Protection Agency, the Food and Drug Administration, the Occupational Safety and Health Administration, and the Food Safety and Quality Service of the Department of Agriculture.

For the past several months, a task force comprised of representatives from the five IRLG agencies has been developing guidelines for tests for skin irritants which may be suitable for use by all five IRLG agencies. The IRLG guidelines also reflect developments in the fields of medicine and the biological sciences which have occurred since publication of the amendment to the FHSA regulation proposed by the Commissioner of Food and Drugs on December 19, 1972. The CPSC's staff intends to evaluate these guidelines, and the Commission may propose an amendment to the existing test procedure for skin irritants contained in the FHSA regulations (16 CFR 1500.41) based on the IRLG guidelines.

For these reasons, the CPSC is withdrawing the proposed amendment to the test for skin irritants published on December 19, 1972.

Until the CPSC publishes a proposed amendment to the test for skin irritants, receives and reviews comments on the proposal, and issues an amendment on a final basis, the provisions of 16 CFR 1500.41, which set forth the present test for determining if a substance is a skin irritant, will remain in effect.

### Conclusion

Therefore, having considered the proposed amendment and material relating to that proposal, the CPSC hereby withdraws the proposed amendment to the FHSA regulations published on December 19, 1972 (37 FR 27635).

Dated: September 19, 1979.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 79–29674 Filed 9–24–79; 8:45 am]

BILLING CODE 6355–01–M

**[16 CFR Part 1500]**

## Identification of Toys and Other Childern's Articles; Withdrawal of Proposal to Classify as Banned Hazardous Substances Toys and Other Childern's Articles Not Labeled as to Identification

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Withdrawal of proposed regulation.

**SUMMARY:** The Consumer Product Safety Commission withdraws a proposed regulation under the Federal Hazardous Substances Act that would have banned any toy or other article intended for use by children that was not labeled with the name and address of the manufacturer, importer, or distributor of the article and the model number, stock number, or other number or symbol which would uniquely identify the particular item. This action is taken because the Commission has concluded that the failure to so label would not constitute a "mechanical hazard" and that the requirement would be unduly burdensome.

**FOR FURTHER INFORMATION CONTACT:** Phyllis Buxbaum, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207 (301) 492–6626.

**SUPPLEMENTARY INFORMATION:** Section 4 of the Federal Hazardous Substances Act, 15 U.S.C. 1263, provides, among other things, that the introduction of any "banned hazardous substance" into interstate commerce is prohibited. Section 2(q)(1) of the act provides that the term banned hazardous substance includes any toy or other article intended for use by children which is a "hazardous substance." Section 2(f) of the act provides that the term "hazardous substance" includes any toy or other article intended for use by children which the Commission determines, in accordance with Section 3(e) of the act, presents a "mechanical hazard." Section 2(s) of the act, 15 U.S.C. 1261(5), states that "an article may be determined to present a mechanical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness (1) from fracture, fragmentation, or disassembly of the article, (2) from propulsion of the article (or any part or accessory thereof), (3) from points or other protrusions, surfaces, edges, openings, or closures, (4) from moving parts, (5) from lack or insufficiency of controls to reduce or stop motion, (6) as

a result of self-adhering characteristics of the article, (7) because the article (or any part or accessory thereof) may be aspirated or ingested, (8) because of instability, or (9) because of any other aspect of the article's design or manufacture.

In the **Federal Register** of April 16, 1973 (38 FR 9436), the Commissioner of Food and Drugs, under authority delegated by the Secretary of Health, Education and Welfare, proposed a regulation under the Federal Hazardous Substances Act (15 U.S.C. 1261–1274) to declare that any toy or other children's article which is not labeled with the name and address of its manufacturer, importer, or distributor and with a model number, stock number, or other number or symbol which will uniquely identify the particular item, presents a "mechanical hazard" and is therefore a banned hazardous product.

On May 14, 1973, responsiblity for the administration and enforcement of the Federal Hazardous Substances Act was transferred to the Consumer Product Safety Commission by section 30(a) of the Consumer Product Safety Act (15 U.S.C. 2079(a)). Therefore, the Commission is now responsible for deciding what action to take on the proposal.

After considering the comments received in response to the proposed regulation, the Commission concludes that the failure of a toy to be labeled in compliance with the proposed regulation would not, by itself, cause the toy to present a "mechanical hazard" as that term is defined in section 2(s) of the Federal Hazardous Substances Act. Furthermore, the Commission believes that to the extent that the proposed regulation would require all toys, regardless of size, price, design, or intended use or function, to be marked with the information set forth in the proposed regulation, the proposal would be unreasonably burdensome.

### Conclusion

Therefore, having considered the proposed rule, the comments received in response to the proposal, and other relevant material, the Commission hereby withdraws the proposed rule regarding toy identification published in the **Federal Register** of April 16, 1973 (38 FR 9436).

Dated: September 19, 1979.

**Sadye E. Dunn,**

*Secretary Consumer Product Safety Commission.*

[FR Doc. 79-29675 Filed 9-24-79; 8:45 am]

BILLING CODE 6355-01-M

## [16 CFR Part 1500]

## Toy Chests and Similar Children's Articles; Withdrawal of Proposal to Classify as Banned Hazardous Substances Toy Chests and Similar Articles

**AGENCY:** Consumer Products Safety Commission.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Consumer Product Safety Commission withdraws a proposed regulation under the Federal Hazardous Substances Act which would ban certain toy chests and similar children's articles that do not meet requirements for design, construction, or assembly set forth in the proposed regulation. The proposal is being withdrawn because the manufacturers of these articles have adopted a voluntary standard that has adequately reduced the risks of injury addressed by the proposal.

**FOR FURTHER INFORMATION CONTACT:** Phyllis Buxbaum, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, phone (301) 492–6400.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of April 27, 1973 (38 FR 10460), the Commissioner of Food and Drugs, acting under authority delegated by the Secretary of Health, Education and Welfare, proposed a regulation that would have classified certain toy chests and similar children's articles as "banned hazardous substances" under section 2(q)(1)(A) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)(A)) if they do not meet requirements for design, construction, or assembly that were in the proposed regulation. In the notice publishing the proposed regulation, the Commissioner of Food and Drugs stated that reports from the National Electronic Injury Surveillance System (NEISS) and reports of investigations conducted by the Food and Drug Administration indicated that certain toy chests and similar articles presented unreasonable risks of personal injury to children primarily as a result of exposed metal hardware and pointed edges on toy chests and similar products. The injuries which occurred most frequently were pinches, lacerations, and contusions caused by the sharp edges and hinges, and suffocation which resulted from the lid of the chest closing and latching while a child was in the chest.

On May 14, 1973 responsibility for administration and enforcement of the Federal Hazardous Substances Act was transferred to the Consumer Product Safety Commission by section 30(a) of the Consumer Product Safety Act (15 U.S.C. 2079(a)). Therefore, the Commission now has the responsibility for deciding what action to take on the proposal.

Since publication of the proposed regulation, manufacturers of toy chests have adopted a voluntary standard which has substantially reduced many of the risks of injury addressed by the proposed regulation. At this time, there would appear to be widespread compliance with this voluntary standard, and the Commission believes that the regulation proposed on April 27, 1973 is no longer required.

### Conclusion

Therefore, having considered the proposed rule, the comments received in response to the proposal, and other relevant material, the Commission hereby withdraws the proposed rule published on April 27, 1973 (38 FR 10460).

Dated: September 19, 1979.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 79-29676 Filed 9-24-79; 8:45 am]

BILLING CODE 6355-01-M

## [16 CFR Part 1501]

## Self-Pressurized Household Products Containing Fluorocarbon Propellants; Withdrawal of Proposal to Declare Fluorocarbons Used as Propellants for Self-pressurized products a Hazardous Substance and to Require Special Labeling

**AGENCY:** Consumer Product Safety Commision.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Commission is withdrawing a reuglation that the Food and Drug Administration proposed to require labeling of self-pressurized aerosol containers of household products which utilize fluorocarbons as the propellant to warn against risks of injury or death from intentional inhalation of the propellant. The Commission is withdrawing the proposal because banning actions of the Environmental Protection Agency and the Food and Drug Administration have largely eliminated the use of fluorocarbon propellants.

**FOR FURTHER INFORMATION CONTACT:** Charles Jacobson, Consumer Product Safety Commission, Directorate for Compliance and Enforcement, Washington, D.C. Phone (301) 492–6400.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of May 3, 1973 (38 FR

10956), the Commissioner of Food and Drugs, acting under authority delegated to him by the Secretary of Health, Education and Welfare, proposed a regulation under the Federal Hazardous Substances Act (15 U.S.C. 1261–1274) which would: (1) Declare fluorocarbons used as propellants in self-pressurized (aerosol) containers to be a "hazardous substance" as that term is defined in section 2(f)(2)(A) of the Federal Hazardous Substances Act; (2) require labeling of self-pressurized containers using fluorocarbon propellants to warn against personal injury and death which may result from deliberate inhalation of the propellant; and (3) to exempt such containers, when labeled in accordance with the proposed regulation, from classification as a "banned hazardous substance" as that term is used in the Federal Hazardous Subtances Act.

The proposed regulation was published because the Food and Drug Administration had received reports of deaths which occurred because persons had musused self-pressurized containers having fluorocarbon propellants by collecting the vapors from the containers and deliberately inhaling them.

The regulation proposed to exempt such containers, when labeled in accordance with the proposed regulation, from classification as a "banned hazardous substance" because it appeared that the risks of injury and death addressed by the proposal resulted solely from deliberate misuse.

On May 14, 1973, the authority to issue regulations implementing the Federal Hazardous Substances Act was transferred to the Consumer Product Safety Commission by section 30(a) of the Consumer Product Safety Act, 15 U.S.C. 2079(a). Therefore, the Commission is responsible for deciding what action to take on the proposal.

However, scientific research conducted in recent years indicates that chlorofluorocarbons (the most widely used fluorocarbon propellant) which are used as propellants in self-pressurized (aerosol) containers may reduce the amount of ozone in the stratosphere and thus increase the amount of ultraviolet radiation reaching the earth. This in turn could increase the incidence of skin cancer.

As a result of these scientific findings, the Environmental Protection Agency (EPA) and the Food and Drug Administration (FDA) issued final rules on March 17, 1978 (43 FR 11300) which prohibit the use of chlorofluorocarbons as propellants for self-pressurized containers of household products.

Because of the banning actions of EPA and FDA, the Commission has concluded that the hazard created by the misuse of fluorocarbon aerosol propellants is no longer a significant safety problem, and a regulation requiring warning labels is not necessary.

### Conclusion

Therefore, having considered the proposal and the comments and other relevant material, the Commission hereby withdraws the proposed rule published May 5, 1973 (38 FR 10956) regarding the labeling of certain self-pressurized containers containing fluorocarbon propellants

Dated: September 19, 1979.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 79-29677 Filed 9-24-79; 8:45 am]

BILLING CODE 6355-01-M

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**[16 CFR Part 1700]**

## Poison Prevention Packaging Tests; Withdrawal of Proposal to Add Informed Consent Requirements

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** The Commission withdraws a proposed rule to amend the regulations under the Poison Prevention Packaging Act of 1970 (the PPPA) which would have required written informed consent from participants in tests of the effectiveness of poison prevention packaging. The proposal is withdrawn because the Commission has issued generic regulations on the protection of human subjects that include informed consent requirements, and requirements specifically applicable to the PPPA are not required.

**FOR FURTHER INFORMATION CONTACT:** Sandra Eberle, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, phone (301) 492–6400.

**SUPPLEMENTARY INFORMATION:** The Poison Prevention Packaging Act of 1970 (the PPPA) authorizes the establishment of special packaging standards for household substances where the standards are required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances. Special packaging is defined as "packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained herein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time." In order to implement this requirement, regulations have been issued establishing a test procedure (16 CFR 1700.20) and effectiveness specifications (16 CFR 1700.20) and effectiveness specifications (16 CFR 1700.15).

The test procedure involves using 200 children and 100 adults to determine the ability of each group to open the special packaging or gain access to its contents and, where appropriate, to determine the ability of the adults to resecure the package.

Originally, the PPPA was administered by the Secretary of Health, Education, and Welfare, who had delegated responsibilities under the act to the Commissioner of Food and Drugs. The Commissioner recognized that there is a slight possibility that test participants could be exposed to harm as a consequence of participation as a test subject. For example, the test procedure permits children to use their teeth, and a child could injure his or her teeth and gums on the package. Participants who open packaging may be exposed to injury from small parts or laceration injury from breakage of the container. In addition, parents should be aware of the remote possibility that child participants may develop the ability to open "special packaging", which could result in subsequent injury at a later date.

In order to safeguard the rights and welfare of subjects involved in the test, the Commissioner concluded that the test procedure should be amended to add a written informed consent requirement that would inform subjects of the risks involved.

Therefore, in the Federal Register of December 16, 1972 (37 FR 26833), the Commissioner published a proposed amendment to the test procedure that would require a written informed consent from each adult participant and from a parent or legal guardian of each child participant prior to the subject's participation in the test.

On May 14, 1973, section 30(a) of the Consumer Product Safety Act (Pub. L. 92–573, 86 Stat. 1231, 15 U.S.C. 2079(a)) transferred the responsibility for administering the PPPA from the Secretary of Health, Education, and Welfare to the Consumer Product Safety Commission (CPSC). Therefore, the CPSC is now responsible for deciding what action to take on the proposal.

Since, that time, however, the Commission has issued a regulation, 16 CFR Part 1028, relating to the protection

of human subjects involved in activities supported by the Commission. This regulation contains detailed requirements for obtaining and documenting informed consent. In view of the Commission's regulation generally applicable to the protection of human subjects, the Commission concludes that a regulation specifically applicable to PPPA testing is unnecessary.

Therefore, since the proposed rule is no longer required, the Commission hereby withdraws the proposed amendment to the PPPA regulations that was published on December 16, 1972 (37 FR 26833).

Dated: September 19, 1979.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 79-29678 Filed 9-24-79; 8:45 am]

BILLING CODE 6355-01-M

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**[16 CFR Part 1700]**

## Promotionally Distributed Samples of Household Substances; Withdrawal of Proposal To Require Special Packaging for Promotional Samples of Household Substances

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** In 1973, a regulation was proposed that would have required child-protection packaging for promotional samples of any "household substance" that is subject to any required or recommended cautionary labeling under the Federal Hazardous Substances Act; the Federal Food, Drug and Cosmetic Act; or the Federal Insecticide, Fungicide and Rodenticide Act, and that is distributed directly to the home but not presented to a responsible adult member of the household. Substances in pressurized spray containers where the only hazard is that the contents are under pressure were excepted from the proposal. The Commission is withdrawing the proposal because, after considering the comments and other available information, it cannot conclude that the degree or nature of the hazard to children from this class of products is such that special packaging is required to protect children from serious illness or serious personal injury.

**FOR FURTHER INFORMATION CONTACT:** Allen F. Brauninger, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6629.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of February 9, 1973 (38 FR 3990), the Commissioner of Food and Drugs proposed a regulation under provisions of the Poison Prevention Packaging Act of 1970 (PPPA) (15 U.S.C. 1471–1476.) to require child-protection packaging for promotional samples of any "household substance" (as that term is defined by section 2(2) of the PPPA) if the product is: (1) Subject to any required or recommended cautionary labeling under the Federal Hazardous Substances Act; the Federal Food, Drug and Cosmetic Act; or the Federal Insecticide, Fungicide and Rodenticide Act; and (2) distributed directly to the home but not presented to a responsible adult member of the household. Substances in pressurized spray containers where the only hazard is that the contents are under pressure were expected from the proposed regulation. This action was taken under authority delegated from the Secretary of Health, Education and Welfare.

On May 14, 1973, section 30(a) of the Consumer Product Safety Act (Pub. L. 92–573, 86 Stat. 1231, 15 U.S.C. 2079(a)) transferred the responsibility for administering the PPPA from the Secretary of Health, Education and Welfare to the Consumer Product Safety Commission (CPSC). Therefore, the CPSC is now responsible for deciding what action to take on the proposal.

In response to the February 9, 1973, notice of proposed rulemaking, comments were received from three consumers, a medical center employee, one manufacturer of packaging materials, five manufacturers of products subject to regulation under the Poison Prevention Packaging Act, four associations of manufacturers of such products, and one association of direct mail advertisers. Comments from the three consumers, the medical center employee, and the manufacturer of packaging materials favored promulgation of the proposed regulation. The remainder of the comments expressed one or more objections to the proposal.

Section 3 of the PPPA states that the Commission may issue a special packaging standard only if it finds that special packaging is needed to protect children from serious personal injury or serious illness. Two manufacturers and thre trade associations objected to the proposed regulation because of the absence of data establishing the degree or nature of the hazard to young children which could result from handling, using, or ingesting household substances contained in promotionally distributed sample packages.

In the notice of February 9, 1973, FDA stated that no specific data were available concerning injuries to children younger than five years of age from promotional samples distributed to households. The notice further stated that information from the National Clearinghouse for Poison Control Centers is not reported in sufficient detail to determine whether the products involved in accidental ingestions by children were obtained from promotionally distributed sample packages. One association of manufacturers of products subject to regulation under the PPPA stated that from 1968 through June of 1972, its member companies mailed more than 100 million samples and received reports of a total of 11 accidental ingestions without any reported injuries.

The Commission has not received any additional information concerning hazards to young children resulting from distribution of promotional samples to households.

Comments from two manufacturers and four trade associations state that many of the cautionary labeling statements required on many sample packages distributed to households concern hazards which result from prolonged use or exposure, and are unrelated to protection of young children against serious illness or injury caused by handling, use, or ingestion of the contents of the sample package. Examples include cautions against the use of certain anti-perspirants if rash develops, or warnings against prolonged use of medicines such as cough syrup.

In taking this action to withdraw the proposal of February 9, 1973, the Commission observes that child-resistant packaging regulations published at 16 CFR 1700.14(a) are applicable to several categories of products which have been determined to present a risk of serious personal injury or illness if handled, used, or ingested by young children. These regulations are applicable regardless of whether the products are offered for sale to consumers or given away as promotional samples. Similarly, for any category of products that is made subject to child-resistant packaging regulations in the future, the regulations will also apply regardless of whether the product is distributed as a promotional sample or offered for sale.

### Conclusion

Therefore, since it appears that the proposed rule was too broad, and because there are no data showing that children are subjected to a risk of serious illness or serious personal injury from hazardous promotional samples, the Commission hereby withdraws the proposed rule published on February 9, 1973 (38 FR 3990) that would have required special packaging for promotional samples.

Dated: September 19, 1979.

**Sadye E. Dunn,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 79-29679 Filed 9-24-79; 8:45 am]

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federal register

Tuesday
September 25, 1979

Part IV

# Department of Health, Education, and Welfare

## Health Care Financing Administration

## Social Security Administration

## Medicaid Program and Aid to Families With Dependent Children

**DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**Health Care Financing Administration**

**Social Security Administration**

**[42 CFR Part 431]**

**[45 CFR Part 205]**

## Fiscal Disallowance for Erroneous Payments in the Aid to Families With Dependent Children and Medicaid Programs

**AGENCY:** Department of Health, Education, and Welfare.

**ACTION:** Policy statement on proposed rules.

**SUMMARY:** These proposed regulations amend the quality control standards promulgated by the Secretary of Health, Education, and Welfare on March 7, 1979. The amendments are necessary to implement a directive of the Congress issued during action on the 1979 Supplemental Appropriations Bill. Under the new requirements, States must reduce their payment error rates to 4 percent by September 30, 1982 in equal steps beginning in fiscal year 1980. Federal matching will be denied for erroneous expenditures in excess of the standards.

**DATES:** Closing date for receipt of comments: On or before November 26, 1979.

**FOR FURTHER INFORMATION CONTACT:**
For AFDC: Sean Hurley, Division of Quality Control, 202–245–0788.
For Medicaid: John Berry, Division of Quality Control, 301–597–1354.

**SUPPLEMENTARY INFORMATION:** A major issue in the history of quality control has been the Federal government's authority and willingness to extend Federal financial participation (FFP) to erroneous expenditures, particularly in instances where the level of erroneous expenditures exceeds prescribed tolerance levels. Prior to 1973, the Department withheld FFP only for erroneous payments uncovered in the quality control sample itself. In 1973, the Department published a regulation which permitted it to reduce Federal matching funds for AFDC if a State's case error rate for ineligibility was more than 3 percent or if the overpayment case error rate was more than 5 percent. In 1976, the U.S. District Court for the District of Columbia ruled in *Maryland* v. *Mathews* (415 F. Supp. 1206, D.D.C. 1976) that, while the Department had the authority to withhold FFP "in a specified amount set by a tolerance level", the 3 percent and 5 percent tolerance levels were "arbitrary" and "capricious" and that the Department could not reduce matching funds based on these levels in the 14 States involved in the litigation. The Department decided not to reduce matching funds in any State and withdrew the regulation.

After that court decision, the Department discussed the quality control program, error rate targets, and disallowance policies extensively with State and local governments and with numerous other affected parties. The Department then published a notice of proposed rulemaking (NPRM) on July 7, 1978, subsequently modified these proposed rules based on public comment, and issued final rules on March 7, 1979.

The NPRM of July 7, 1978 and the final rules promulgated on March 7, 1979 included error rate standards for Medicaid for the first time. Prior to these rules, Federal matching for erroneous Medicaid expenditures was withheld only for errors uncovered in the sample itself.

In summary, the March 7, 1979 regulations embodied these features:

O No absolute error rate standard was specified. Instead, the Department announced its intention to complete a study by October 1980 to form the basis for ultimate absolute standards.

O In the interim, standards would be set annually at the level of the national average payment error rate. The Secretary believed that actual performance best reflected States' administrative and managerial capability to lower error rates.

o Finally, States with error rates well above the national average were not expected to reduce their error rates to the national average instantly. Rather, States were expected to reduce errors at the applicable national average reduction rate. Thus, States were expected to make continual, steady progress until the standards were finally achieved.

In the course of deliberations on a fiscal year 1979 Supplemental Appropriations bill (Pub. L. 96–38), the House-Senate conferees reviewed the March 7, 1979 standards and concluded that a much more ambitious error reduction campaign was desirable. The Conference Committee therefore directed the Secretary to issue new regulations requiring that all States "reduce their AFDC and Medicaid erroneous excess payment rates to 4 percent by September 30, 1982." The Statement of Conference Managers further specified:

o That there should be a phased reduction from the base period payment error rate to the 4 percent target over the fiscal years 1980, 1981, and 1982; the base period was specified to be April–September 1978 for AFDC and July–December 1978 for Medicaid;

o That failure to meet an error rate target should result in the loss of Federal matching funds associated with erroneous payment expenditures in excess of the target; this provision is also contained in the March 7, 1979 regulations;

o That the Secretary should promulgate final regulations implementing these provisions no later than November 30, 1979;

o That under no circumstances should payments to legitimate recipients be curtailed or even delayed; and

o That the Department "establish a system for determining error rates that insures equal treatment for all States."

Subsequently, in acting on the Department's appropriation for fiscal year 1980, the Conference Committee added the following language to the bill:

"the requirements pertaining to AFDC and Medicaid error rates, as specified in the Conference Report on the Fiscal 1979 Supplemental Appropriations Act (Pub. L. 96–38), shall be carried out except where the Secretary determines, in certain limited cases, that States are unable to reach the required reduction in a given year despite a good faith effort."

The Statement of Managers notes that the good faith waiver process is to be limited to extraordinary circumstances. The fiscal 1980 Labor-HEW Appropriations bill was reported by the Conference Committee on July 31, 1979, has already passed the House, and is awaiting final action by the Senate.

While the language of the Statement of Managers is specific on the above points, it does not address a series of more technical questions that must be resolved in implementing the new provision. Foremost among these are:

o The definition of payment error to be used in determining compliance;

o The exact schedule of interim error rate targets to be employed in order to achieve the phased reduction;

o The transition from the standards of the March 7, 1979 regulations to the new congressional standards;

o The criteria for determining when circumstances justify granting a waiver;

o The means of assuring that payments to legitimate recipients are not curtailed or delayed as a result of fiscal disallowances; and

o The means of assuring equal treatment to States in the determination of error rates.

1. *Definition of payment error to be used in determining if the error rate*

*targets have been met.* For the purposes of these regulations, payment error includes all sources of error that are included in the existing regulations and thus were included in the error rates for the AFDC April–September 1978 base period and the Medicaid July–December 1978 base period. This means that AFDC errors associated with State failure to properly apply child support requirements or failure to obtain a social security number for each recipient are included as errors. Medicaid errors related to claims processing and third-party liability are not included.

2. *Schedule of interim targets.* In calling for error rate reductions to a 4 percent goal, the Statement of Managers does not specify a schedule of interim targets. It simply requires that progress toward 4 percent be made "in equal amounts each year beginning in fiscal year 1980." The Department has interpreted this to mean that, in progressing from the base period error rate to the 4 percent target by September 30, 1982, each State must achieve one-third progress by September 30, 1980 and two-thirds progress by September 30, 1981.

The Department will retain its current quality control systems in AFDC and Medicaid that provide error rate estimates for the semi-annual periods October-March and April-September, rather than for particular points in time (e.g., September 30). In determining State compliance with an error rate target to be reached by a calendar date, the Department will use the weighted average of the State's error rates for the two six-month reporting periods that follow the target date. The weights will be established as the percent of total annual payments that occur in each of the six-month periods. The Department believes that to assess compliance annually, rather than semi-annually, is more consistent with the language of the Statement of Managers.

Since State error rates are presumably declining over time, it would be unfair to hold a State to a standard for a calendar period if that target is not to be met until the end of the period. Thus, the requirement that one-third progress be achieved by September 30, 1980 establishes a first interim standard to be applied in October 1980-March 1981 and April-September 1981. The requirement that two-thirds progress be achieved by September 30, 1981 establishes a second interim standard, to be applied in October 1981-March 1982 and April-September 1982. The 4 percent goal will then become the standard for October 1982-March 1983 and April-September 1983, and for all succeeding annual assessment periods.

An example will illustrate the schedule of phased error reduction. If a State's base period error rate was 10.0 percent, the following schedule would apply:

| Quality Control Reporting Periods | Progress Toward 4 Percent | Error Rate Target [1] |
|---|---|---|
| a. October 1980–March 1981 and April–September 1981. | one-third..... | 8.0 |
| b. October 1981–March 1982 and April–September 1982. | two-thirds..... | 6.0 |
| c. October 1982–March 1983 and April–September 1983, and each succeeding year. | ..... | 4.0 |

[1] This assumes a base period error rate of 10.0 percent. Compliance will be determined on the basis of a weighted average of error rates for the two semi-annual reporting periods in each fiscal year.

3. *Transition from current standards.* Prior to the implemention of these targets, we will maintain the disallowance policy established in the final regulations published on March 7, 1979. The congressional directive contained in the Statement of Managers clearly seeks to strengthen the current policy, not to replace it. To revoke the present set of standards and then impose targets that are ultimately stricter would be inconsistent with the congressional mandate. Furthermore, the Department believes that the present policy represents a sound and balanced approach to management improvement in AFDC and Medicaid. In addition, the Department has committed itself to fiscal savings as a result of error rate reductions in both AFDC and Medicaid in the period prior to October 1980. If the current policies are revoked, the savings might be foregone and further progress delayed. Therefore, the provisions of the current regulation will be retained for the quality control reporting periods April–September 1979, October 1979–March 1980, and April–September 1980.

4. *Criteria for waiving disallowances.* The amendment to the fiscal year 1980 Labor-HEW Appropriations Bill states that "the requirements pertaining to AFDC and Medicaid error rates . . . shall be carried out except where the Secretary determines, in certain limited cases, that States are unable to reach the required reduction in a given year despite a good faith effort." The Statement of Conference Managers states the intention of the conferees that the "waiver process is to be limited to extraordinary circumstances." The March 7, 1979 regulation includes a provision for exempting a State from fiscal disallowance (or reducing the disallowance) if the State can establish good reason for not meeting the error target. To grant a waiver under the current regulation, the Secretary must find that "factors beyond the control of the State" precluded the State from achieving the error rate standard. The regulation gives a number of examples of mitigating circumstances considered sufficient to justify a waiver:

- o Disasters such as fire, flood, or civil disorders, that required the diversion of significant personnel normally assigned to eligibility administration, or destroyed or delayed access to significant records needed to make or maintain accurate eligibility determinations.
- o Strikes of State staff or other government or private personnel necessary to the determination of eligibility or processing of case changes;
- o Sudden and unanticipated workload changes which result from changes in Federal law and regulation, or rapid, unpredictable caseload growth in excess of, for example, 15 percent for a 6-month period; and
- o State actions resulting from incorrect written policy interpretation to the State by a Federal official reasonably assumed to be in a position to provide such interpetation.

These proposed rules amend the waiver provision in the current regulations in recognition of the reference to a "good faith effort" in the Appropriations Bill as reported from conference. In particular, the basis on which the Secretary may grant a waiver is being changed from (a) a finding that factors beyond the control of the State precluded achievement of the error rate standard to (b) a finding that, despite a State's good faith effort, the State was unable to attain the error rate standard. Such a finding is limited to extraordinary circumstances. Both the criteria and the list of examples in the current regulation implied a finding that intervening external forces made achievement impossible. Given the criteria in the current regulation, the Secretary would be unable to waive or reduce a penalty in a State that made an all-out, conscientious effort that substantially reduced its error rate, but nevertheless did not fully achieve the error rate standard. Thus, we are adding the following to the illustrative list of qualifying situations:

- o The State developed and implemented, in a timely manner, a corrective action plan reasonably desinged to meet the target error rate, but the target error rate was not met.

In evaluating whether the State has made a good faith effort in these circumstances, the Department will consider the following factors:

o Demonstrated commitment by top management to the error reduction program, e.g., priorities and goals clearly enunciated to staff, accountability for performance, availability of resources;

o Sufficiency and quality of operational systems which are designed to reduce errors e.g., BENDEX, IDEX, monthly reporting, retrospective budgeting, error prone profiles, local agency monitoring systems, computer clearances;

o Use of effective systems and procedures for the statistical and program analysis of QC and related data, e.g., statistical tests, tabulations and cross-tabulations, error prone profiles, corrective action committees, special studies; and

o Effective management and execution of the corrective action process, e.g., assignment of responsibilities, milestones for completing tasks, completion of tasks, monitoring of progress.

These provisions are ones on which the Department particularly encourages public comment.

5. *Means of assuring that payments to legitimate recipients are not curtailed or delayed.* The Statement of Conference Managers provides that "under no" circumstances are any payments to legitimate recipients to be curtailed or even delayed" on account of threatened fiscal sanctions. The conferees however, did not suggest any means of providing such protection. The Department can (and does) act to prevent the use of administrative discretion to deny beneficiaries their full entitlement under prevailing State payment provisions. In particular, the quality control system measures the extent of underpayments to eligible recipients and the erroneous denial or termination of benefits to clients. The Department intends to make full use of these measures to insure that States provide to applicants and current recipients their full benefit entitlement. The Department is also examining policies that could—through legislation, regulation, or other Departmental directive—prevent across-the-board benefit reductions in States that face fiscal sanctions.

6. *Means of assuring equal treatment to States in the determination of error rates.* The Department recognizes the importance of eliminating any opportunity for a State to manipulate to its advantage the quality control measurement system by which error rates are calculated. The Statement of Managers directs that the Department "establish a system for determining error rates that insures equal treatment for all States." The Department feels that such treatment is provided by the current Federal re-review procedure in which a random subsample of each State's quality control sample is reviewed by Federal monitoring staff. A statistical adjustment is made to the State-determined error rate based on the extent of nonconcurrence between the original State findings and the subsequent Federal findings for the subsample. This Federal monitoring system serves to correct for the differential standards of scrutiny that may exist among States in the initial quality control review.

Further, if a State fails to complete the review findings for its full quality control sample in either AFDC or Medicaid, the Department will assign to the State an error rate based on either the weighted average of the State's payment error rates for the three sample periods or the findings of a Federal sample. This procedure will be followed for the reporting periods relevant to both the current disallowance policies in AFDC and Medicaid and the congressionally-mandated standards.

Dated: September 19, 1979.

**Patricia Roberts Harris,**

*Secretary.*

[FR Doc. 79-29691 Filed 9-24-79; 8:45 am]

BILLING CODE 4110-12-M

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## Health Care Financing Administration

## [42 CFR Part 431]

## Medicaid Program; Quality Control System Error Rate

**AGENCY:** Health Care Financing Administration (HCFA), HEW.

**ACTION:** Proposed Rule.

**SUMMARY:** Current Medicaid Quality Control regulations provide for a reduction of Federal matching funds under title XIX, Social Security Act, to any State that has an eligibility determination error rate exceeding a specified target. This proposal would set a uniform national target error rate of 4 percent to be achieved by all States by September 30, 1982. It reflects Congressional intent that States make increased efforts to control unnecessary expenditures in the Medicaid program.

**DATES:** Closing date for receipt of comments: On or before November 26, 1979.

**ADDRESSES:** Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 17067, Baltimore, Maryland 21235.

Please refer to File Code MMB-275-P. Agencies and organizations are asked to submit comments in duplicate. Comments will be available for public inspection, beginning approximately 2 weeks after publication, in room 5220 of the Department's offices at 330 C Street, SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202-245-0950).

**FOR FURTHER INFORMATION, CONTACT:** John Berry, 301-597-1354.

42 CFR Part 431, Subpart P, is amended as set forth below.

1. Section 431.801 is amended by revising the title, paragraph (a), and paragraph (c) to read as follows:

### Subpart P—Quality Control

**§431.801 Disallowance of Federal financial participation for erroneous State payments (effective through September 1980).**

(a) *Purpose and applicability.*

(1) *Purpose.* This section establishes rules and procedures for disallowing Federal financial participation (FPP) in erroneous Medicaid payments due to eligibility errors, as detected through the Medicaid Quality Control (MQC) system required under § 431.800 of this subpart.

(2) *Applicability.* This section applies to States through the end of the April-September 1980 MQC review period. After September 30, 1980. HCFA will apply the performance standards specified in § 431.802.

* * * * *

(c) *Setting the State's error rate.* An error rate for each State will be determined for each MQC review period, in accordance with instructions issued by HCFA. Erroneous eligibility determinations by a the Social Security Administration (SSA) of Supplemental Security Income (SSI) eligibility will not be included in determining the State's error rate. (If a State fails to complete a valid MQC review as required for any review period, HCFA will assign the State an error rate based on either the weighted average of its error rate or the last three review periods, a special Federal sample or audit, or Federal subsample.)

* * * * *

2. A new § 431.802 is added as follows:

**§ 431.802 Disallowance of Federal financial participation for erroneous State payments (effective beginning October 1, 1980).**

(a) *Purpose and applicability.* (1) *Purpose.* This section establishes rules and procedures for disallowing Federal financial participation (FFP) in erroneous Medicaid payments due to eligibility errors, as detected through the Medicaid Quality Control (MQC) system required under § 431.800 of this subpart.

(2) *Applicability.* This section will apply to States for each 12 month annual assessment period beginning with the October 1980–September 1981 period.

(b) *Definitions.* For purposes of this section—"Annual Assessment Period" means the 12 month period, October 1 through September 30 and includes two 6-month review periods (October–March and April–September).

"Base period" means the 6 month MQC sample period from July through December 1978, used to calculate each State's error rate.

"Eligibility errors" has the same meaning as specified in § 431.800(b).

"National standard" means a 4 percent payment error rate.

"State payment error rate" means the rate of eligibility payment errors detected under the MQC system for an annual assessment period or a review period.

"State target error rate" means the error rate that a State must achieve in order to avoid a disallowance of FFP under this section.

(c) *Setting the State's payment error rate.* A payment error rate for each State will be determined for each annual assessment period in accordance with instructions issued by HCFA. Erroneous eligibility determinations by the Social Security Administration (SSA) of Supplemental Security Income (SSI) eligibility will not be included in the State's payment error rate. If a State fails to complete a valid MQC review as required for any review period, HCFA will assign the State a payment error rate based on either the weighted average of its payment error rate for the last three review periods, a special Federal sample or audit, or the Federal subsample.

(d) *Establishing the target error rate.* (1) Each State with a based period payment error rate in excess of 4 percent must reduce its payment error rate to 4 percent by the October 1982–September 1983 annual assessment period.

This reduction must be made in three equal increments for each October–September annual assessment period beginning with the October 1980–September 1981 period.

(2) HCFA will establish each State's target error rate for the October 1980–September 1981 annual assessment period by multiplying one-third times the amount by which the State's base period error rate exceeds 4 percent; this product is then substracted from the State's base period error rate. To establish the target error rate for the October 1981–September 1982 annual assessment period, HCFA will multiply two-thirds times the amount by which the State's base period error rate exceeds 4 percent; this product is then subtracted from the State's base period error rate. For all annual assessment periods after September 30, 1982, the State must meet the 4 percent national standard.

*Example*

Assume HCFA is establishing target error rates for the October 1981–September 1982 annual assessment period, and that the State in question had a base period error rate of 16 percent. The target error rate would be computed as follows: Sixteen percent (the State's base period error rate) less 4 percent (the national standard) equals 12 percent; 12 percent multiplied by 2/3 equals 8 percent; 8 percent is subtracted from 16 percent to yield an 8 percent target error rate.

(3) States with error rates in the base period at or below the 4 percent national standard must maintain that standard as their target error rate.

(4) Beginning with the October 1980–September 1981 annual assessment period and for all subsequent annual assessment periods, HCFA will notify each State agency of its progress in achieving the target error rates.

(e) *Procedures for disallowance of FFP.* (1) If a State fails to meet its target error rate despite a good faith effort, HCFA will disallow FFP, as provided in this section, for each annual assessment period as appropriate.

(2) If a State fails to meet its target error rate, HCFA will compute the dollar amount to be disallowed as follows:

The difference between the State's target error rate and the State's payment error rate for an annual assessment period will be multiplied by the amount of FFP for medical assistance claimed by the State for the annual assessment period. This product will be the amount of the disallowance.

A State payment error rate for an annual assessment period will be the sum of the weighted payment error rates in the two 6-month review periods.

The weights will be established as the percent of total annual payments that occur in each of the six month periods.

*Example*

The State's target error rate was 8 percent. During the first 6-month review period the payment error rate was 10 percent and the total payments made during that 6-month period were $20 million. During the second 6-month review period, the payment error rate was 9 percent and total payments were $30 million. The total payments in the annual assessment period were $50 million.

The weight applied to the payment error rate for the first 6-month period would be .4 ($20 million divided by $50 million).

The weight applied to the payment error rate for the second 6-month period would be .6 ($30 million divided by $50 million).

Therefore, the payment error rate for the annual assessment period would be 9.4 percent or 4 percent (.4 x 10 percent for the first 6-month period) plus 5.4 percent (.6 x 9 percent for the second 6-month period).

Since the target error rate was 8 percent and the payment error rate was 9.4 percent, HCFA would disallow 1.4 percent of the amount of FFP claimed by the State for its Medicaid program for the annual assessment period.

(3) HCFA will notify a State that it will disallow matching funds because the State did not meet its target error rate. The State will have 65 days from the date of this notification to show that it made a good faith effort to meet the target error rate. If the Secretary finds that the State did not meet its target error rate despite a good faith effort, HCFA will reduce the disallowance in whole or in part, as the Secretary finds appropriate under the circumstances shown by the State. A finding that a State did not meet the target error rate despite a good faith effort will be limited to extraordinary circumstances.

(4) Some examples of circumstances under which the Secretary may find that a State did not meet the target error rate despite a good faith effort are—

(i) Disasters such as a fire, flood, or civil disorders, that—

(A) Require the diversion of significant personnel normally assigned to Medicaid eligibility administration, or

(B) Destroyed or delayed access to signficant records needed to make or maintain accurate eligibility determinations;

(ii) Strikes of State staff or other government or private personnel necessary to the determination of eligibility or processing of case changes;

(iii) Sudden and unanticipated workload changes which result from changes in Federal law and regulation, or rapid, unpredictable caseload growth in excess of, for example, 15 percent for a 6 month period;

(iv) State actions resulting from incorrect written policy interpretation to the State by a Federal official reasonably assumed to be in a position to provide such interpretation; and

(v) The State timely developed and implemented a corrective action plan reasonably designed to meet the target

error rate, but the target error rate was not achieved. In evaluating whether the State made a good faith effort in these circumstances, the Secretary will consider the following factors—

(A) Demonstrated commitment by top management to the error reduction program; e.g., priorities and goals clearly enunciated to staff, accountability for performance, availability of resources;

(B) Sufficiency and quality of systems designed to reduce errors that are operational in the State, e.g., BENDEX, SDX, monthly reporting, error prone profiles, local agency monitoring systems, computer clearances;

(C) Use of effective system and procedures for the statistical and program analysis of QC and related data, e.g., statistical tests, tabulations and cross-tabulations, error prone profiles, corrective action committees, special studies; and

(D) Effective management and execution of the corrective action process, e.g., assignment of responsibilities, milestones for completing tasks, substantial completion of tasks, monitoring of progress.

(5) The failure of a State to act upon necessary legislative changes or to obtain budget authorization for needed resources is not a ground for a waiver.

(6) A State may request reconsideration of a disallowance under this section in accordance with the procedures specified in 45 CFR Part 16.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302)) (Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Dated: August 31, 1979.

**Leonard D. Schaeffer,**

*Administrator, Health Care Financing Administration.*

Approved: September 19, 1979.

**Patricia Roberts Harris,**

*Secretary.*

[FR Doc. 79-29692 Filed 9-24-79; 8:45 am]

BILLING CODE 4110-35-M

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## Social Security Administration

## [45 CFR Part 205]

## Aid to Families With Dependent Children; Calculating Reduction in Federal Financial Participation for Incorrect Payment by States After September 1980

**AGENCY:** Social Security Administration (SSA), HEW.

**ACTION:** Proposed Rule.

**SUMMARY:** These proposed regulations change the quality control standards published on March 7, 1979 (44 FR 12579) for the reduction of incorrect payments in Aid to Families with Dependent Children (AFDC). The changes conform to a directive of the Congress issued during action on the 1979 Supplemental Appropriations Act (Pub. L. 96-38). The changes require States to reduce their payment error rates to 4 percent by September 30, 1982 in equal steps beginning in fiscal year 1980. Federal financial participation will not be made for incorrect payments exceeding the amounts allowed.

**DATES:** Your comments will be considered if we receive them on or before November 26, 1979.

**ADDRESSES:** Send your written comments on the AFDC provisions to: Social Security Administration, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203. Copies of all comments which the Social Security Administration receives can be seen at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 1169, 330 Independence Avenue SW., Washington, D.C. 20201.

**FOR FURTHER INFORMATION CONTACT:** Sean Hurley, Division of Quality Control, telephone (202) 245-8999..

45 CFR Part 205 is amended as follows:

1. Section 205.41 is amended by revising the title and revising paragraphs (a)(1) and (d)(1), and by adding paragraph (a)(3) to read as follows:

### § 205.41 Reduction of FFP for incorrect payments by States (effective through September 1980).

(a) *Purpose and applicability.* (1) This section provides the rules we will use to determine whether we will reduce the amount of Federal matching funds (Federal financial participation or FFP) we give to a State, and, if so, the amount of the reduction. We will reduce the amount of our matching funds if a State makes more incorrect payments in its AFDC program than allowed under the rules in this section. These rules apply to all States which have AFDC programs.

(2) * * *

(3) The rules in this section apply to all States through the end of the April-September 1980 quality control sample period. Beginning with the October 1980-March 1981 quality control sample period and for subsequent 6-month sample periods, we will apply the performance standards described in § 205.42.

* * * * *

(d) *How we establish a national standard.* (1) *Information we will use.* We will use the information provided by the Federal/State quality control system. This system measures the dollar amount of incorrect payments for every 6-month period (April-September and October-March). If a State fails to complete a valid sample for any 6-month sample period, we will assign to the State an error rate based on either the weighted average of the State's payment error rate for the last three sample periods or a Federal sample.

* * * * *

2. A new § 205.42 is added to read as follows:

### § 205.42 Reduction in Federal financial participation FFP) for incorrect payments by States after September 1980.

(a) *Purpose and applicability.* This section provides the rules we will use beginning with October 1980 to determine whether we will reduce the amount of Federal matching funds (Federal financial participation or FFP) we give to a State, and, if so, the amount of the reduction. We will reduce the amount of our matching funds if a State makes more incorrect payments in its AFDC program than allowed under the rules in this section. These rules apply to all States which have AFDC programs.

(b) *Definitions.* For the purposes of this section—

"Annual assessment period" means the 12-month period October 1-September 30.

"Base period" means the April-September 1978 quality control system review period.

"Incorrect payments" means payments to people who are ineligible for a payment and overpayments to eligible people.

"National standard" means a 4 percent payment error rate.

"Payment error rate" means the dollar amount of incorrect payments a State has made expressed as a percentage of the State's total payments.

"We," "us" or "our" means the Department or the Social Security Administration as appropriate.

(c) *General.* In these rules we are establishing a national standard for incorrect payments in the AFDC programs. This standard will be used to measure performance of the States in each annual assessment period beginning with the October 1980-September 1981 period. A State whose payment error rate is below the national standard in the base period must not go above the standard, without risking reduction in Federal matching funds. A State whose payment error rate is above

the standard must reduce its error rate to the national standard or to the State's target error rate established under these rules.

(d) *How we establish acceptable levels for State performance using the national standard.* (1) *Target error rates for States above the national standard in the base period.* (i) Each State with a base period payment error rate in excess of 4 percent must reduce its payment error rate to 4 percent by the October 1982–September 1983 annual assessment period in 3 equal increments for each October-September annual assessment period beginning with the October 1980–September 1981 period.

(ii) We will establish each State's target error rate for the October 1980–September 1981 annual assessment period by multiplying one-third times the amount by which the State's base period payment error rate exceeds 4 percent; this product is then subtracted from the State's base period payment error rate. To establish the target error rate for the October 1981–September 1982 annual assessment period, we will multiply two-thirds times the amount by which the State's base period payment error rate exceeds 4 percent; this product is then subtracted from the State's base period payment error rate. For all annual assessment periods after September 30, 1982, the state must meet the 4 percent national standard.

*Example.* The State's payment error rate during the base period is 10 percent. Therefore, the amount by which the State's payment error rate exceeds the 4 percent national standard is 6 percent (or 10 minus 4). The State must reduce this 6 percent by one-third, or 2 percent (8 percent target error rate) for the October 1980–September 1981 annual assessment period. For the October 1981–September 1982 annual assessment period, the State's target error rate would be 6 percent. For all annual assessment periods after September 30, 1982, the State must meet the 4 percent national standard.

(2) *States that have achieved the national standard.* States that have achieved the 4 percent national standard in the base period must maintain that standard.

(e) *Information we will use.* We will use the information provided by the Federal/State quality control system.

This system measures the dollar amount of incorrect payments for every 6-month period (April–September and October–March). A State's payment error rate for the annual assessment period will be the sum of the weighted payment error rates in the State for the two corresponding 6-month sample periods. The weights will be established as a percentage of the total annual payments that occur in each of the 6-month periods. If a State fails to complete a valid sample for any 6-month sample period, we will assign to the State an error rate based on either the weighted average of the State's payment error rate for the last three sample periods or a Federal sample.

(f) *If a State fails to meet the established rate.* If a State does not meet the national standard or its target error rate for any 12 month annual assessment period, we will reduce our matching funds to the State to those 12 months, unless the State can show that it made a good faith effort to meet the target rate. We will reduce our matching funds by the amount we would not have paid if the State had reached its goal (the national standard or the taget error rate).

*Example.* The State's target payment error rate was 8 percent. During the first six month sample period the actual payment error rate was 10 percent and the total payments made during that six month period were $20 million. During the second six month sample period, the payment error rate was 9 percent and total payments were $30 million. The total payments in the annual assessment period were $50 million.

The weight applied to the payment error rate for the first 6-month period would be 0.4 ($20 million divided by $50 million) and the weight applied to the payment error rate for the second 6-month period would be 0.6 ($30 million divided by $50 million).

Therefore the payment error rate for the annual assessment period would be 9.4 percent or 4 percent (0.6 times 9 percent for the second six month period).

Since the target error rate was 8 percent and the payment error rate was 9.4 percent, we will reduce our matching funds by 1.4 percent of the Federal share of the dollars the State paid under its AFDC program.

(g) *When we will reduce a disallowance because a State has made a good faith effort.* (1) We will notify a State that we are going to reduce (or disallow) matching funds because the State did not meet the national standard or the target error rate established for the State. The State will have 65 days from the date on this notification to show that it made a good faith effort to meet the established error rate target. If we find that the State did not meet the national standard or the target error rate despite a good faith effort, we will reduce the funds being disallowed in whole or in part as we find appropriate under the circumstances shown by the State. A finding that a State did not meet the target error rate despite a good faith effort will be limited to extraordinary circumstances.

(2) Some examples of circumstances under which we may find that a State did not meet the target error rate despite a good faith effort are—

(i) Disasters such as fire, flood or civil disorders, that—

(A) Require the diversion of significant personnel normally assigned to AFDC eligibility administration, or

(B) Destroyed or delayed access to significant records needed to make or maintain accurate eligibility determinations;

(ii) Strikes of State staff or other government or private personnel necessary to the determination of eligibility or processing of case changes;

(iii) Sudden and unanticipated workload changes which result from changes in Federal law and regulations, or rapid, unpredictable caseload growth in excess of, for example, 15 percent for a 6-month period;

(iv) State actions resulting from incorrect written policy interpretation to the State by a Federal official reasonably assumed to be in a position to provide such interpretation; and

(v) The State timely developed and implemented a corrective action plan reasonably designed to meet the target error rate but the target error rate was not met. In evaluating whether the State has indeed made a good faith effort in these circumstances, we will consider the following factors—

(A) Demonstrated commitment by top management to the error reduction program, e.g., pirorities and goals clearly enunciated to staff, accountability for performance, availability of resources;

(B) Sufficiency and quality of systems designed to reduce errors that are operational in the State, e.g., BENDEX, IDEX, monthly reporting, retrospective budgeting, error prone profiles, local agency monitoring systems, computer clearances;

(C) Use of effective system and procedures for the statistical and program analysis of QC and related data, e.g., statistical tests, tabulations and cross-tabulations, error prone profiles, corrective action committees, special studies; and

(D) Effective management and execution of the correction action process, e.g., assignment of responsibilities, milestones for completing tasks, completion of tasks, monitoring of progress.

(3) The failure of a State of act upon necessary legislative changes or to obtain budget authorization for needed resources is not a basis for finding that a

State failed to meet the target error rate despite a good faith effort.

(h) *Disallowances subject to appeal.* If a State does not agree with our decision to reduce (disallow) FFP, it can appeal to us within 45 days from the date of our decision. The regular procedures for appeal of disallowance will apply, including review by the Grant Appeals Board (see 45 CFR Part 16.)

(Section 1102 of the Social Security Act; 49 Stat. 647, as amended; 42 U.S.C. 1302; and Pub. L. 96-38.)

(Catalog of Federal Domestic Assistance Program Nos. 13.714—Medical Assistance Program; 13.808 Assistance Payments—Maintenance Assistance (State Aid).)

Dated: September 15, 1979.

**Stanford G. Ross,**

*Commissioner of Social Security.*

Approved: September 19, 1979.

**Patricia Roberts Harris,**

*Secretary of Health, Education, and Welfare.*

[FR Doc. 79-29693 Filed 9-24-79; 8:45 am]

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federal register

Tuesday
September 25, 1979

Part V

# Department of the Interior

Office of Surface Mining Reclamation and Enforcement

# Environmental Protection Agency

Memorandum of Understanding

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**[30 CFR Ch. VII]**

**ENVIRONMENTAL PROTECTION AGENCY**

**[40 CFR Ch. I]**

**[FRL 1324-3]**

## Memorandum of Understanding

**AGENCIES:** United States Department of the Interior, Office of Surface Mining Reclamation and Enforcement (OSM), and the United States Environmental Protection Agency (EPA).

**ACTIONS:** Proposed Memorandum of Understanding (MOU), Advance Notice of Proposed Rulemakings.

**SUMMARY:** OSM and EPA announce the availability of the solicit public comment on a proposed Memorandum of Understanding (MOU) which integrates the National Pollutant Discharge Elimination System (NPDES) permit program under the Clean Water Act (*CWA*) (30 U.S.C. 1251 *et seq.*) with the permanent regulatory program permit system for Surface Coal Mining and Reclamation Operations (SCMROs), under Title V (Title V permit program) of the Surface Mining Control and Reclamation Act of 1977 (*SMCRA*) (30 U.S.C 1201 *et seq.*). In addition, OSM and EPA announce their intention to engage in future rulemakings to implement the MOU and solicit comments for the purpose of drafting the proposed rules. Finally, because EPA proposed revisions to the permit program on June 14, 1979, some of the revisions, when final, may be adopted (possibly through a cross reference) into OSM's rules. Comments are invited, therefore, on EPA's proposed rules, as they specifically apply to SCMROs.

**DATES:** Comments on the proposed MOU and on what rules should be proposed by OSM and EPA to implement the MOU must be submitted not later than 5 p.m. Eastern Daylight Savings Time November 9, 1979.

**ADDRESSES:** Copies of the proposed MOU may be obtained from and comments on both the proposed MOU and on what rules OSM and EPA should propose to implement the final MOU must all be submitted to *either:*

(1) Office of Surface Mining Reclamation and Enforcement, United States department of the Interior, South Building, 1951 Constitution Avenue, NW. (Attn: Administrative Record—Room 135), Washington, D.C. 20240 or 20245; telephone number (202) 343-4728; *or*

(2) Dov Weitman (A-2), Office of Water Enforcement (FN-336) United States Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; telephone number (202) 755-2598.

**FOR FURTHER INFORMATION CONTACT EITHER:** (1) Lewis M. McNay, Office of Surface Mining Reclamation and Enforcement, United States Department of Interior, 1100 L Street, N.W., Room 5315, Washington, D.C. 20018; telephone number (202) 343—8032; *or*

(2) Dov Weitman (A-2), Office of Water Enforcement (FN-336), United States Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; telephone number (202) 755-2598.

**SUPPLEMENTARY INFORMATION:**

### I. Background

*A. The NPDES Program*

Under section 301(a) and 402 of the Clean Water Act (CWA), discharges of pollutants to waters of the United States are required to obtain NPDES Permits. The NPDES Program includes regulation of discharges by SMCROs. The NPDES permit program is administered in particular States either by the Regional Offices of EPA, or by State water quality agencies with EPA-approved programs. EPA has recently revised its NPDES regulations at 40 CFR Part 122-125 (44 FR 32854, June 7, 1979), and subsequently reproposed the NPDES regulation in a new format, in EPA's Consolidated Permit Regulations (44 FR 34244, et seq., June 14, 1979).

*B. SMCRA Programs*

In 1977, Congress enacted the Surface Mining Control and Reclamation Act of 1977 (SMCRA), establishing a national federal environmental and public health and safety regulatory scheme for SCMROs. Under the SMCRA, detailed environmental protection performance standards, including standards to protect the quality and quantity of water resources, are applicable to the industry. *See, e.g.,* Sections 101, 102; 515(b), 516(b), 517. These performance standards are to be applied through a phased, comprehensive regulatory program.

The first phase, or "initial regulatory program" phase, covering all SCMROs, was established through OSM's issuance of rules 30 CFR Parts 700-725 (Private and Federal Lands) published on December 13, 1977; 25 CFR Part 177 (Indian Lands) published on December 16, 1979; and 30 CFR Part 211 (Federal Lands) published on August 22, 1978. During the initial program a minimum number of federal standards are applicable under SMCRA to the permitting of coal mines. *See, e.g.,* Sections 502, 510(d), 515(a)-(d), 516, 522(e), SMCRA. However, during the second, or "permanent regulatory program" phase, more detailed Federal Standards are imposed under SMCRA through a comprehensive permitting system. *See, e.g.,* Sections 502(d), 506-517, 519, 522, SMCRA. National rules for implementing the SMCRA permanent regulatory program were promulgated by OSM on March 13, 1979. 44 FR 15312, *et seq.*

(1). *Private Lands.* The SMCRA permanent program permit will be introduced according to a phased schedule. For privately-owned lands, the States have the opportunity to assume primary jurisdiction over the regulation of SCMROs if the Secretary of the Interior approves the State program. *See* Section 503, SMCRA. If a State does not obtain approval of its program from the Secretary, then a Federal program must be initiated. *See* Section 504, SMCRA. If a State program cannot be approved by June 3, 1980, the Secretary is to implement a Federal program for the State involved. Section 504(a), SMCRA.

Under either a State or Federal program, all existing SCMROs must file permit applications with the applicable SMCRA regulatory authority within two months from the approval of a State or Federal program. *See* Sections 502(d), 506(a), SMCRA. The regulatory authority is to act to approve or disapprove those applications within eight months from program approval. Sections 502(d), 506(a), SMCRA. Although permit system requirements will be published for each separate Federal or State program, each will contain requirements generally similar to those at Subchapter G of OSM's permanent program rules. 44 FR 15349-15385.

(2). *Federal Lands.* For Federal lands, a somewhat different phase-in schedule will apply. The Secretary of the Interior has the ultimate responsibility for administering the permanent SMCRA program permits system on Federal lands, a responsibility he cannot delegate to the States. Section 523, SMCRA. However, joint administration of the permit system for Federal lands may occur through cooperative agreements with States in which Federal lands are located. *See* Section 523(c), SMCRA. For Federal lands, applications for permits for new coal mines or extensions of existing mines must be filed according to requirements in the

permanent program after April 12, 1979. Unless otherwise required by the SMCRA regulatory authority, persons conducting existing SCMROs on Federal lands will not be subject to the permanent program permit requirements until a State or Federal program is instituted for private lands in a particular State. *See* 30 CFR 741.11(c)(i), 44 FR 15333 (March 13, 1979). As a result, applications for permanent program permits for existing SCMROs on Federal lands ordinarily will have to be filed within two months of approval of a State or Federal program covering the private lands of the particular State and a permit approved or denied within eight months of the program approval. *See* 30 CFR 741.11(c)(1)–(2), 44 FR 15333 (March 13, 1979).

(3). *Indian Lands.* For Indian lands, a permanent regulatory program is not applicable until 1980. Implementing rules for the permanent Indian lands program, including permits, will not be adopted until later. *See* Section 710, SMCRA.

*C. Potential for Duplication*

Without coordination, the potential exists for substantial duplication in the application of SMCRA and NPDES permit program requirements. First, extensive agency resources would be devoted to the regulation through permit systems of individual SCMROs under both programs. Second, the industry would be required to prepare applications for and obtain separate individual SMCRA and NPDES permits for the same SCMRO. Third, an operator could be subject to conflicting substantive requirements under the two permit systems. Fourth, the interested public and other governmental agencies would have to devote substantial resources for participation in two separate, individualized permit systems for the same SCMRO.

To avoid potential duplication of this magnitude, Sections 503(a)(6) and 504(h) of SMCRA mandate that permit systems under SMCRA State and Federal programs specifically include processes for coordination in the review and issuance of SMCRA permits with other applicable Federal and State permit processes. In addition, EPA is engaged in a concerted effort to consolidate the administration of its permit programs, among other reasons, to eliminate unnecessary duplication. EPA is also seeking to consolidate their permit programs with the permit programs of other Federal agencies. As a result of these considerations, OSM and EPA have developed a proposal whereby the two agencies would provide for a coordinated permit system to control discharges of pollutants into waters of the United States.

**II. The Proposed Memorandum of Understanding**

*A. Introduction.*

In summary, the MOU would establish an integrated NPDES/SMCRA permitting system under the SMCRA permanent regulatory program. The MOU would directly apply only in cases where EPA itself operates the NPDES program. However, in States where EPA has approved State NPDES programs, EPA will authorize and encourage the State water quality agency to similarly coordinate NPDES programs with SMCRA regulatory authorities.

Where EPA is the NPDES permitting authority, NPDES requirements would be fulfilled in two stages. First, EPA would issue State-wide "Special NPDES coal mining permits" covering all SCMROs in the State. The Special permit would authorize discharges under NPDES by all SCMROs which are subject to issued SMCRA permanent regulatory program permits (Title V permits), containing the water-quality related requirements of the NPDES system.

The second phase of the NPDES permitting system would be accomplished by integration of applicable procedural and substantive NPDES requirements into the Title V permit process itself, including EPA and State water quality agency review and comment upon Title V permit applications inclusion of NPDES-related conditions into SMCRA permits, and enforcement of those conditions under both the *CWA* and *SMCRA*. In addition, EPA would retain the right, pursuant to its statutory obligations, to require that a SCMRO be covered by an "Individual NPDES coal mining permit," if the SMCRA permit were found not to satisfy NPDES requirements adequately.

OSM and EPA are proposing this system following the agencies' detailed review of available agency resources and their understanding of Congress' expectation under the CWA and SMCRA. EPA's resources under the NPDES permit program must be divided among dozens of categories of municipal and industrial point-source discharges. Coal mining is only one of those many categories. OSM on the other hand, has been provided with resources to focus specifically upon the comprehensive regulation of coal mining. Also, in enacting SMCRA, Congress has called for a comprehensive national environmental regulatory scheme, including a broad and highly detailed permitting program, specifically fashioned for coal mining. In doing so, Congress anticipated that the primary reservoir or regulatory expertise for coal mining would be located within OSM and State SMCRA regulatory agencies. Finally, the scope of permitting requirements for coal mining under SMCRA is much more extensive than under the CWA. *See* Sections 507, 508, SMCRA. Principally, SMCRA is broader because it covers all environmental media, while the CWA focuses on water quality only. Therefore, it is desirable to integrate all applicable water-quality considerations into the comprehensive environmental scheme under SMCRA. For all these reasons, OSM and EPA tentatively have concluded that detailed permitting of individual SMCROs ordinarily should be handled primarily through the SMCRA regulatory process, incorporating applicable NPDES requirements, rather than through a transfer of SMCRA requirements into the NPDES permit process, or by requiring SCMROs to acquire individual permits from both programs.

*B. Scope of MOU*

Because the initial regulatory program under SMCRA provides only indirectly for Federal permitting standards, the agencies do not believe that a significant potential for duplication exists between the mandatory requirements of the SMCRA and the CWA during the initial regulatory program under SMCRA. The proposed MOU does not, therefore, contemplate a coordinated permitting process during the SMCRA initial regulatory program. Of course, the MOU would not preclude States from developing processes for coordination of NPDES requirements with their initial SMCRA regulatory program. In addition, the MOU would not establish a coordination system for permitting SCMROs on Indian lands, since SMCRA permanent regulatory programs regulations for Indian lands have not yet been developed. However, under the MOU, EPA and the Department would expect to establish a coordination process when permanent SMCRA program rules for Indian lands are developed.

As mentioned above, the MOU would not provide for mandatory coordination processes where the NPDES program has been delegated to States under Section 402 of the CWA, 33 U.S.C. Section 1342. The CWA does not empower EPA to preclude approved NPDES States from administering an NPDES permit program which is separate from a SMCRA permanent regulatory program permit system. (IN contrast, the SMCRA does require the establishment of a coordination process

for permanenent regulatory program permit systems. *See* Sections 503(a)(6), 504(h), SMCRA.) However, EPA recognizes the desirability of coorinating the NPDES program at the State level with Title V permit programs. Therefore, it will encourage States through policy memoranda and other means, to coordinate their programs in a similar manner. EPA will propose regulations allowing a special permit program to be established by NPDES approved States. These regulations will appear as part of the proposed rulemaking announced in this notice.

*C. Legal Authority*

The MOU, if adopted, would be executed by EPA and the Department of the Interior under the Administrative Procedures Act (5 U.S.C. Sections 551, et seq.); Titles I, II, V, and VII, SMCRA, 30 U.S.C. Sections 201 *et seq.*; and the Clean Water Act, 33 U.S.C. 251 *et seq.*

*D. NPDES Permits Under the Proposed MOU*

1. As mentioned above, EPA would issue State-wide "Special NPDES coal mining permits." Procedures providing for appropriate public participation in the issuance of those permits would be utilized.

2. Under Section 511 of the CWA and the National Environmental Policy Act, 42 U.S.C. 4332 (NEPA), EPA must perform environmental reviews prior to issuing NPDES permits to new sources. In some situations, this obligation would overlap with similar NEPA obligations of OSM under the SMCRA permanent regulatory program. In States where OSM is the SMCRA regulatory authority and responsible for issuing Title V permits under either SMCRA Federal or Federal lands programs, it must comply with NEPA. Since NEPA applies only to Federal permitting decisions, States issuing NPDES or Title V permits need not comply with NEPA.

The proposed MOU would establish a policy to minimize NEPA duplication where both EPA and OSM issue permits and to account for EPA's NEPA obligation where no OSM NEPA obligation exists. Where both agencies issue permits (*e.g.*, SMCRA Federal or Federal lands programs), OSM would be the lead NEPA agency. In States where EPA issues permits, but OSM does not (*e.g.*, State SMCRA program), EPA would have primary NEPA responsibility, but only for new sources. In these instances EPA would issue two separate Special NPDES coal mining permits in each such State. One would be applicable to all potential new sources on private lands within the States during the term of the Special permit. EPA would perform its NEPA obligations during the issuance of such Special permits. The other Special permit would cover all other SCMROs in the State and could be issued expeditiously without prior environmental review. Due to the need to have Special NPDES coal mining permits issued at the time that the SMCRA permanent regulatory program permit process is first being implemented, EPA would agree under the MOU to conduct necessary NEPA activities according to priorities established by OSM.

3. Special NPDES coal mining permits would become effective for a particular SMCRO, upon the operator's receipt of a valid Title V permit from the SMCRA regulatory authority. When that happens, any pre-existing, individual NPDES coal mining permit for that SCMRO would terminate, unless EPA decided to require continuation of an individual NPDES coal mining permit. As a condition of authority to conduct operations under the Special NPDES coal mining permit, the SCMROs would have to be conducted in full compliance with the requirements of the Title V permit. Violations of NPDES requirements contained in the Title V permit would constitute violations of the Special NPDES coal mining permit and would be enforceable separately under both the CWA and SMCRA.

4. EPA's retention of its ability to issue individual NPDES coal mining permits in appropriate circumstances is necessary to allow EPA to discharge its duties under the CWA. Therefore, although SCMROs ordinarily will be covered fully by Special NPDES coal mining permits, EPA's authority to require that a particular SCMRO be covered by an individual NPDES coal mining permit for due cause would be preserved under the proposed MOU. EPA would issue individual NPDES coal mining permits in relatively few situations, such as: (a) The failure of a SMCRA regulatory authority to include in the Title V permit an important water-quality related permit condition; (b) identification of issues affecting a SCMRO during NEPA review in the issuance of either a new source Special NPDES coal mining permit or an OSM-issued Title V permit; or (c) the failure of SCMRO to operate in compliance with NPDES conditions of the Title V permit. Where EPA required the SCMRO to obtain an individual NPDES coal mining permit, EPA would afford the SCMRO an appropriate opportunity to contest the terms of the proposed individual permit.

5. The proposed MOU contains detailed procedures to insure that SCMROs and other interested parties be afforded adequate input in the permit issuance process. To streamline the process, parties will be strongly encouraged by these procedural requirements to address all water-quality related issues through the Title V permit processes. However if, after unsuccessfully utilizing Title V procedures, a party believes that the final effective Title V permit fails to incorporate all NPDES provisions required under CWA, they may petition EPA to issue an individual NPDES coal mining permit with conditions more stringent than the Title V permit. In addition, EPA may, on its own initiative, decide to issue an individual NPDES coal mining permit. In that case, NPDES—related issues would be adjudicated through NPDES procedures, an no Title V adjudicatory hearing would be held on those issues.

*E. SMCRA (Title V) Permitting*

1. The OSM permanent program rules already incorporate much of the permit application, review and permit-issuance requirements of the CWA's NPDES program, as authorized by SMCRA. *See* Sections 507, 508, 510, 511, 515, 516 and 517, SMCRA; Parts 770, 771, 778–88, 816–817, and Subchapter L of OSM's permanent program rules, 44 FR 15349 *et seq.* (March 13, 1979). Under Section C of the MOU, OSM would agree to promulgate regulations which provide for inclusion of the remainder of applicable NPDES requirements into Title V permit requirements, as authorized by SMCRA.

2. Specifically, OSM would agree to propose regulations which would (a) require Title V permit applications to include all information necessary for an NPDES permit; (b) require SMCRA regulatory authorities to incorporate into each Title V permit all required NPDES permit conditions, conditions required by the United States Army Corps of Engineers to protect navigation and anchorage, and conditions required by a valid State certification issued under Section 401 of the CWA; and (c) provide EPA, as well as other interested parties, the opportunity to review and comment on Title V permit applications and propose special water-quality related Title V permit conditions.

3. OSM will propose regulations incorporating (by reference where practicable) appropriate provisions of EPA's application requirements for SCMROs. EPA recently has proposed new application requirements for existing sources (44 FR 34244 *et seq.*, June 14, 1979).

For new sources, EPA intends to propose new NPDES permit application requirements by December, 1980, at which time it will accept comments on those requirements. Pending EPA's proposal of application requirements for new sources, OSM intends to propose regulations to incorporate applicable portions of EPA's existing new source application requirements, which are contained in EPA's application form OMB 158–R–0100. Copies of this form may be obtained from the addresses listed above.

4. To prevent delays in Title V permit issuances, the proposed MOU would require EPA and State water-quality agency comments on the Title V application to be filed within fixed time periods. As proposed, a general time limit of 90 days would be required, with a shorter 60-day time period for mines whose proposed annual production would be less than 100,000 tons. For operations of those small mines, a shorter period is appropriate, both because less time should be required for application review and because SMCRA evidences a concern for the expeditious processing of their applications by the SMCRA regulatory authority. *Cf:* Sections 502(c), 507(c), SMCRA.

Where EPA or State water-quality agency comments suggest the inclusion of special permit conditions not expressly identified in the applicable SMCRA program regulations, those comments would be subject, in turn, to opportunity for further comment. This procedure is proposed as an alternative to the more time-consuming preparation and circulation for public review of a draft NPDES permit. *Compare* 40 CFR 124.31124.45, 44 F.R. 32927–32933 (June 7, 1979). Circulation of a draft NPDES permit prior to final Title V permit issuance is not a procedure which can be incorporated readily into the SMCRA permanent regulatory program, due to statutory SMCRA requirements, including time constraints. *See* sections 502(d), 506(a), 513, 514, SMCRA.

To preserve the basic purpose behind the draft NPDES coal mining permit process (*e.g.*, exposure for public scrutiny of proposed permit conditions that are recommended on an individual permit), it is proposed that the public be afforded an opportunity to review and comment on particular types of EPA/State water-quality agency comments on the Title V application. The length of the public comment period is proposed to be left to the discretion of the SMCRA regulatory authority on a case-by-case basis, depending upon the complexity and length of the EPA/State water-quality agency comments.

5. Under the proposed MOU, the SMCRA regulatory authority would attempt to resolve any disagreements with EPA on disposition of EPA's comments prior to a final decision on the Title V application. Ultimately, the SMCRA regulatory authority would be allowed discretion under the MOU and OSM's implementing regulations as to whether to follow EPA's suggestions. However, if the SMCRA regulatory authority does not incorporate any of EPA's proposed special conditions, EPA would have the option of requiring an individual NPDES coal mining permit for the SCMRO. The failure of the SMCRA regulatory authority to incorporate EPA's proposed special conditions would be reviewable under Section 514 and 526 of SMCRA only if EPA did not require an individual NPDES coal mining permit. If EPA does require an individual NPDES coal mining permit, the SCMRO would be afforded due process protection through EPA's NPDES permit procedures. Thus, a forum would always be available to resolve particular disputes.

*F. Agency Inspection and Monitoring*

The MOU also would provide for a cooperative inspection and monitoring program. The SMCRA regulatory authority would give EPA representatives access to its monitoring reports and would make semiannual reports available to EPA on NPDES-related violations by SCMROs. The SMCRA regulatory authority would have primary responsibility for inspections of SMCROs, including environmental sampling and analysis to determine compliance with all water-quality conditions contained in Title V permits and individual NPDES coal mining permits (where the latter have been issued). EPA would retain authority to conduct independent inspections if needed. EPA, OSM, and SMCRA regulatory authorities will jointly share enforcement authorities for violations of NPDES requirements.

## III. Public Participation

A. MOU—Copies of the proposed MOU are available at the addresses listed above and also at each OSM Regional office at the following addresses:

**Region I**

Office of Surface Mining, U.S. Department of the Interior, 1st Floor, Thomas Hill Building, 950 Kanawha Blvd., East, Charleston, W. Va. 25301.

**Region II**

Office of Surface Mining, U.S. Department of the Interior, 530 Gay Street, Suite 500, Knoxville, Tennessee 37902.

**Region III**

Federal Building, Ohio and Pennsylvania Streets, Indianapolis, IN 46204.

**Region IV**

Office of Surface Mining, U.S. Department of the Interior, 818 Grand Avenue, Kansas City, MO 64106.

**Region V**

Office of Surface Mining, U.S. Department of the Interior, Post Office Building, Room 270, 1832 Stout Street, Denver, Colorado 80202.

Written comments must be submitted by the date and to the address stated above for the Washington, D.C. offices of EPA or OSM. No public hearing is planned during the 45-day comment period on the proposed MOU. However, public hearings will be held when rules are proposed to implement the MOU. Dates, times, and places for those hearings will be provided when the proposed rules are published in the **Federal Register.**

B. *Proposed Rulemaking*—OSM and EPA intend to propose rules to implement the MOU. Written comments should address the general scope of such a proposal and specific issues which should be covered by the proposed rules. The comments should be submitted to the Washington, D.C., offices of EPA or OSM by the date and at the addresses given above.

IV. The Department has determined that the proposed implementing rules would not be significant, under applicable rules of procedure, and do not require a regulatory analysis of economic effect. Copies of the document supporting this determination are available at the OSM Washington, D.C., office listed above as an addressee.

## V. Principal Authors

The principal authors of the proposed MOU have been Lewis M. McNay, Acting Chief, Division of Applied Research, Office of Technical Services and Research, OSM, and William Jordan, Chief, Industrial Permits Branch, Office of Water Enforcement, U.S.E.P.A.

Dated: September 6, 1979.

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## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

| Monday | Tuesday | Wednesday | Thursday | Friday |
|---|---|---|---|---|
| DOT/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 |
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| 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

**INTERIOR DEPARTMENT**

Land Management Bureau—

**50344** 8–28–79 / New Mexico, restoration of public lands

### 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 24, 1979**

# Slip Laws

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