10-12-79
Vol. 44 No. 199
Pages 58889-59194

federal register

Friday
October 12, 1979

Highlights

CONTINUED INSIDE

Highlights

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

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Area Code 202-523-5240

Contents

Federal Register
Vol. 44, No. 199
Friday, October 12, 1979

MEETINGS ANNOUNCED IN THIS ISSUE

CANCELLED MEETINGS

HEARINGS

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 44, No. 199
Friday, October 12, 1979

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 451

Government Employees' Incentive Awards Program

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The regulations implementing the Government Employees' Incentive Awards Program, issued under the provisions of Section 4506 of title 5, United States Code, have been revised to (1) accommodate changes required by the Civil Service Reform Act of 1978, (2) update and improve content, and (3) incorporate General Accounting Office recommendations for improvement of the Government Employees' Incentive Awards Program. In accordance with Office of Personnel Management policy, these regulations provide a broad framework within which agencies shall make maximum use of the authority delegated to them to establish and operate an incentive awards program that best supports the agency's mission and objectives and motivates the agency's personnel.

EFFECTIVE DATE: These regulations are effective on October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Richard P. Brengel, 202–632–5568.

SUPPLEMENTARY INFORMATION: The proposed regulations were published for comment in the **Federal Register** on August 17, 1979. (44 FR 48228–48230). Comments were received from 29 organizations and individuals. A number of editorial changes, which simplify and clarify the regulations, and minor substantive changes have been made as a result of comments received. The major changes are discussed below.

Analysis of Comments

Four comments were made with regard to the use of the word "training" in § 451.205(a)(1). One was commendatory; one concerned extent of training, which will be dealt with in guidance material; and two thought the word "training" inappropriate. OPM intentionally phrased this provision to emphasize that *training* in incentive awards should be part of a planned training program in addition to any informal means agencies use to communicate awards program information to the work force. OPM experience, confirmed by GAO's review of the program, indicates that supervisors are not receiving effective incentive awards training.

One commenter questioned the need for "feedback" to employees required by § 451.206(c). Providing information on awards is essential to the credibility of the program and the proper use of appropriated funds for awards payments.

One comment was received expressing concern with the requirements of § 451.206(i), that their effective use of the awards program be a consideration in granting sustained superior performance awards to supervisors, may lead supervisors to recommend employees for awards that are unwarranted. OPM believes that supervisors and managers, who meet program goals and objectives to the extent that they merit performance awards, should also recognize subordinates who contributed to their success. Also, since they are responsible for improving Government productivity through effective use of performance awards and encouragement of employee suggestions, it is appropriate that this be a consideration in granting them performance awards.

One commenter expressed concern that excluding merit pay employees from awards coverage under the revised Part 451 would preclude their receiving awards prior to their conversion to merit pay. Employees remain under the General Schedule, thus eligible for awards under Part 451, until converted to merit pay. However, pursuant to Part 540 of the Code of Federal Regulations, the processing of non-performance-related awards for merit pay employees will be under the provisions of this part.

Two comments concerned the requirement in § 451.204 that OPM review agency awards plans. One stated that review should be post-implementation and one opined that it is inconsistent with OPM's policy of greater delegation of authority to agencies. This requirement was inserted to comply with the General Accounting Office's recommendation that OPM strengthen its oversight of the Federal Incentive Awards Program by reviewing and approving agency plans prior to their implementation. Also, this requirement is consistent with similar requirements for review of agency merit pay and performance appraisal plans.

These regulations will be supplemented by further guidance issued through the Federal Personnel Manual System.

The Office of Personnel Management finds that good cause exists for suspending the requirement for a 30-day delay in the date of effectiveness, to facilitate Federal agencies' implementation of incentives provided under the Civil Service Reform Act of 1978, and the revision of awards programs to strengthen and more directly support Federal goals and objectives as recommended by the General Accounting Office. The official who made this determination is Jule M. Sugarman, Deputy Director, Office of Personnel Management.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is revising 5 CFR Part 451, to read as follows:

PART 451—INCENTIVE AWARDS

Subpart A—Statutory requirements.

Subpart B—Regulatory Requirements of the Office of Personnel Management

Authority: 5 U.S.C. 4506.

Subpart A—Statutory Requirements

§ 451.101 Principal statutory requirements.

This subpart contains the statutory requirements and the Office of Personnel Management's regulatory requirements for establishment and conduct of the Government Employees' Incentive Awards Program provided for in title 5, United States Code, Chapter 45. The text reads as follows:

Sec. 4501. Definitions. For the purpose of this chapter—(1) *"agency"* means—(A) an Executive Agency; (B) the Administrative Office of the United States Courts; (C) the Library of Congress; (D) the Office of the Architect of the Capitol; (E) the Botanic Garden; (F) the Government Printing Office; and (G) the government of the District of Columbia; but does not include—(i) the Tennessee Valley Authority; or (ii) the Central Bank for Cooperatives; (2) *"employee"* means—(A) an employee as defined by section 2105 of this title, but does not include an employee covered by the merit pay system established under section 5402 of this title, and (B) an individual employed by the government of the District of Columbia; and (3) *"Government"* means the Government of the United States and the government of the District of Columbia.

Sec. 4502. General Provisions. (a) Except as provided by subsection (b) of this section, a cash award under this chapter may not exceed $10,000. (b) When the head of an agency certifies to the Office of Personnel Management that the suggestion, invention, superior accomplishment, or other meritorious effort for which the award is proposed is highly exceptional and unusually outstanding, a cash award in excess of $10,000 but not in excess of $25,000 may be granted with the approval of the Office. (c) A cash award under this chapter is in addition to the regular pay of the recipient. Acceptance of a cash award under this chapter consitutes an agreement that the use by the Government of an idea, method, or device for which the award is made does not form the basis of a further claim of any nature against the Government by the employee, his or her heirs, or assigns. (d) A cash award to, and expense for the honorary recognition of, an employee may be paid from the fund or appropriation available to the activity primarily benefiting or the various activities benefiting. The head of the agency concerned determines the amount to be paid by each activity for an agency award under section 4503 of this title. The President determines the amount to be paid by each activity for a Presidential award under section 4504 of this title.

Sec. 4503. Agency Awards. The head of an agency may pay a cash award to, and incur necessary expense for the honorary recognition of, an employee who—(1) by his or her suggestion, invention, superior accomplishment, or other personal effort contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork; or (2) performs a special act or service in the public interest in connection with or related to his or her official employment.

Sec. 4504. Presidential Awards. The President may pay a cash award to, and incur necessary expense for the honorary recognition of, an employee who—(1) by his or her suggestion, invention, superior accomplishment, or other personal effort contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork or (2) performs an exceptionally meritorious special act or service in the public interest in connection with or related to his or her official employment. A Presidential award may be in addition to an agency award under section 4503 of this title.

Sec. 4505. Awards to Former Employees. An agency may pay or grant an award under this chapter notwithstanding the death or separation from the service of the employee concerned, if the suggestion, invention, superior accomplishment, other personal effort, or special act or service in the public interest for which the award is proposed was made or performed while the employee was in the employ of the Government.

Sec. 4506. Regulations. The Office of Personnel Management shall prescribe regulations and instructions under which the agency awards program set forth by this chapter shall be carried out.

Sec. 4507. Awarding of Ranks in the Senior Executive Service. (a) For the purpose of this section, 'agency', 'senior executive', and 'career appointee' have the meanings set forth in section 3132(a) of this title. (b) Each agency shall submit annually to the Office, recommendations of career appointees in the agency to be awarded the rank of Meritorious Executive or Distinguished Executive. The recommendations may take into account the individual's performance over a period of years. The Office shall review such recommendations and provide to the President recommendations as to which of the agency recommended appointees should receive such rank. (c) During any fiscal year, the President may, subject to subsection (d) of this section, award to any career appointee recommended by the Office the rank of (1) Meritorious Executive, for sustained accomplishment, or (2) Distinguished Executive, for sustained extraordinary accomplishment. A career appointee awarded a rank under paragraph (1) or (2) of this subsection shall not be entitled to be awarded that rank during the following 4 fiscal years. (d) During any fiscal year (1) the number of career appointees awarded the rank of Meritorius Executive may not exceed 5 percent of the Senior Executive Service; and (2) the number of career appointees awarded the rank of Distinguished Executive may not exceed 1 percent of the Senior Executive Service. (e) (1) Receipt by a career appointee of the rank of Meritorious Executive entitles such individual to a lump-sum payment of $10,000, which shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 5384 of this title. (2) Receipt by a career appointee of the rank of Distinguished Executive entitles the individual to a lump-sum payment of $20,000, which shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 5384 of this title.

Subpart B—Regulatory Requirements of the Office of Personnel Management

§ 451.201 Purpose.

The Government Employees' Incentive Awards Program is designed to improve Government operations and services. Its purpose is to motivate employees to increase productivity and creativity by rewarding those whose job performance and adopted ideas benefit the Government and are substantially above normal job requirements and performance standards.

§ 451.202 Policy.

The Office of Personnel Management encourages agencies to make maximum use of their authorities under Chapter 45 of title 5, United States Code, to establish and administer awards programs that best support and enhance agency and national goals, and meet employee recognition needs.

§ 451.203 Definitions.

In this part:

"Agency," "employee," and "Government" have the meanings given to these terms by section 4501 of title 5, United States Code, as set out in § 451.101;

"Incentive award" or "award" means either a cash award, an honorary award, or both;

"Office" means the United States Office of Personnel Management;

"Plan" means a written statement approved by the head of the issuing agency, implementing law and regulation on the Government Employees' Incentive Awards Program; and

"Presidential award" means an award granted by the President under sections 4504 and 4507 of title 5, United States Code, as set out in § 451.101.

§ 451.204 Responsibilities of the Office of Personnel Management.

(a) The Office shall review agency plans, plan changes, and operation of plans to determine compliance with OPM requirements. When review indicates non-compliance by an agency or organization, or when requested by an agency to do so, the Office will provide technical assistance to agencies and take whatever other actions are considered appropriate to bring about compliance.

(b) The Office shall report annually on the results of the awards program to the President, the Congress, and to agencies.

(c) The Director, Office of Personnel Management, shall advise the President on Presidential awards for Government employees, and issue instructions to

agencies on how to nominate employees for Presidential awards.

§ 451.205 Agency responsibilities.

(a) The head of each agency shall give personal leadership to the agency's incentive awards program and seek to gain maximum benefits for the Government through improved employee motivation and productivity by providing for:

(1) *Equal opportunity for all employees to earn awards* by training employees on how they may earn awards, and further training for supervisors and managers on the effective use of incentive awards to improve individual and organizational performance;

(2) *Integrity of the program* by reviewing agency program results to assure that awards are granted equitably, on the basis of merit, and that, when merited, action is taken to grant awards; and that information is made available concerning persons who have received awards and the reason(s) why each award is granted; and

(3) *Greatest motivational impact* by allocating an adequate budget and staffing and support services to assure prompt action on all employee suggestions and performance award recommendations and effective promotion and publicity activities.

(b) Each agency head may delegate the responsibilities in § 451.205(a) as deemed appropriate for his or her organization.

(c) The head of each agency shall transmit to the Office:

(1) Award recommendations over $10,000;

(2) Recommendations for Presidential awards including those for monetary recognition beyond $25,000 under 5 U.S.C. 4504, as set out in § 451.101;

(3) Any new plan, or change in plan, no later than 30 days prior to the proposed effective date; and

(4) By November 15, annually, a report on program activities for the past fiscal year and a statement of major program goals, objectives and resources for the next year.

§ 451.206 Agency plans.

Each agency shall establish and operate an up-to-date plan which shall provide for:

(a) Delegation of authority and responsibility for approval of awards to the lowest level consistent with sound management practices;

(b) Award recommendations to involve the minimum amount of paperwork and processing which shows that criteria are met, expenditure of appropriated funds for the award is justified, and that a record of an award approved under this part is made in the official personnel file;

(c) Central administration and review of the agency-wide program, including systematic evaluation, planning, and feedback reports to employees;

(d) Time limits for completion of evaluation of suggestions and action on performance award recommendations;

(e) Linkage between the awards program and achievements of national and agency goals and objectives;

(f) Use of management reviews and productivity measurement processes to identify and recommend awards for employees who meet the criteria;

(g) Immediate awards for performance of one-time special acts or services, timely evaluation and processing of other performance awards and suggestions, and prompt presentation of approved awards;

(h) Use of the agency's performance appraisal system(s) as the basis for granting awards based on sustained superior performance of assigned duties;

(i) Effective use of incentive awards to motivate employees, and receptivity to and encouragement of suggestions, to be included in criteria for sustained superior performance awards for supervisors and managers;

(j) Consideration of suggestions and special achievements for wider application both within the agency and Government-wide, and prompt referral when appropriate; and

(k) Recognition granted under this regulation to be a factor in ranking and selecting employees who otherwise meet requirements for promotion.

§ 451.207 Eligibility.

An award may be granted when the suggestion, invention, superior accomplishment or other personal effort:

(a) Benefits the Government as described in 5 U.S.C. 4503 and 4504, as set out in § 451.101;

(b) Was made while the contributor was a Government employee;

(c) Has been described in writing; and

(d) Has been approved by the benefiting organization at a management level higher than the individual who recommended the suggestion or performance award, use of the suggestion or invention.

§ 451.208 Additional awards.

In addition to any award granted initially upon local application of a suggestion, invention, superior accomplishment, or other personal effort, a further award may be granted if:

(a) There is wider application, or

(b) There are greater benefits than originally determined.

§ 451.209 Payment.

(a) Awards paid under this part are in addition to the regular pay of the recipient, and are subject to the withholding of income taxes.

(b) When an award is approved for an employee of another agency, arrangements shall be made to transfer funds to the employing agency. If the administrative costs of transferring funds would exceed the amount of the award, the employing agency shall absorb the award costs.

[FR Doc. 79-31514 Filed 10-11-79; 8:45 am]

BILLING CODE 6325-01-M

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Parts 705 and 706

Questions and Answers on the Anti-Inflationary Pay and Price Standards and Procedural Rules

AGENCY: Council on Wage and Price Stability.

ACTION: Questions and Answers on the Anti-Inflationary Pay and Price Standards and Procedural Rules.

SUMMARY: On October 2, 1979, the Council published Anti-Inflationary Pay and Price Standards and Procedural Rules for the Anti-Inflation Program. Since October 2, the Council has received many questions concerning the standards and the procedural rules, particularly with respect to the availability of cost-of-living adjustments and carry-over of unused allowable pay increases from the first program year. In response to these questions, and to clarify the standards and the procedural rules in the second program year, the Council is publishing the following Questions and Answers. The Council will publish additional Questions and Answers on a regular basis as questions of general application arise under the Pay and Price Standards, the Procedural Rules, or the Questions and Answers published today.

EFFECTIVE DATE: October 9, 1979.

ADDRESS: Written comments and/or questions should be addressed to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Pay Standard—Daniel Duff, 456–6210, Price Standard—Al Wurglitz, 456–6286, Procedural Rules—Jane Campana, 456–6210.

Dated: October 9, 1979.

R. Robert Russell,

Director, Council on Wage and Price Stability.

Questions and Answers; I. The Price Standard

Q. If an acquired company is combined with the acquiring company into a single compliance unit, for what period(s) should data for the acquired company be included with the acquiring company data?

A. The acquired company data must be included on a consistent basis for all periods for which computations are made.

Q. Should all manufacturing or processing operations of wholesale and/or retail companies be disaggregated for compliance purposes?

A. No. Disaggregation is necessary only if the wholesale or retail entity elects to apply the percentage-gross-margin standard for its wholesale or retail operations and the manufacturing or processing operations account for either $50 million or more, or 10 percent or more, of the entity's base-year sales. If these conditions are met, a separate compliance unit should be established for the manufacturing and processing operations even if there are no outside sales. The separate unit may elect to comply with the two-year price limitation standard in 705A or a modified price standard in 705C, if appropriate.

II. The Pay Standard

Q. What pay standard is in effect during the interim period that has been referred to in Council press releases?

A. During this interim period, the first-year standard remains in effect, but the Council is taking actions to remedy the inequities that have been identified. Procedural matters during the interim period are governed by the Interim Final Procedural Rules for the Second Program Year.

Q. The Council has announced that it will permit employers to carry over unused allowable pay increases from the first year. How is carry-over measured and applied?

A. Carry-over is the difference between the first-year pay standard and the chargeable pay-rate increase for the employee unit in the first program year. This amount may be added to the allowable pay-rate increase for the employee unit in the second program year.

Q. May carry-over be self-administered?

A. Yes.

Q. May carry-over pay-rate increases be made retroactive?

A. No. Carry-over may be made effective the first day of the company's second program year, but no earlier.

Q. May the carry-over adjustment apply to collective-bargaining units covered by contracts that were exempt during the first program year under Section 705B–3(e)?

A. No. The carry-over adjustment applies only to employee units that were covered by the pay standard in the first program year.

Q. The Council has announced that it will authorize adjustments in cases in which disparities in pay-rate increases between employee units covered by cost-of-living adjustment (COLA) clauses and those not covered by such clauses demonstrably require correction. Under what conditions may employers self-administer the non-COLA catch-up provision?

A. An employer may self-administer a pay-rate increase not to exceed one percent for units that were not covered by a cost-of-living clause and that were in compliance with the pay standard during the first program year.

Q. Under what conditions may catch-up increases exceed one percent?

A. The following criteria must be met:

1. The employee unit satisfies the conditions for the one-percent catch-up (that is, the unit was not covered by a cost-of-living clause and it was in compliance with the pay standard during the first year).

2. The company demonstrates that an increase of one percent would be inadequate to compensate for the fact that either (a) the non-COLA employee unit's wages have been compressed in comparison with COLA-covered employees within the same company (intra-firm inequities) or (b) the employer is competing in a labor market in which other employers provide COLA or COLA-related increases to their employees (inter-firm inequities).

3. The company requests an exception to exceed a one-percent catch-up if it qualifies under § 706.31 to seek Council approval of an exception from the pay standard.

Q. When and how are the non-COLA catch-up increases to be paid?

A. They may be added to the allowable second-year pay-rate increase, and therefore may be paid as early as the first day of the company's second program year, but no earlier.

Q. The Council has permitted catch-up for workers not covered by cost-of-living clauses. Are there circumstances when workers covered by COLA-like provisions may be eligible for non-COLA catch-up?

A. Yes. For purposes of catch-up, a COLA clause is defined as an explicit formula tying changes in pay rates to changes in the Consumer Price Index. If payments are not tied directly to changes in the Consumer Price Index, the employee unit may qualify for a non-COLA catch-up.

Q. Are collective-bargaining units that signed agreements during the first program year eligible for the non-COLA catch-up adjustment?

A. Yes, if such agreements comply with the pay standard and do not have a COLA clause.

Q. The Council permits a collective-bargaining agreement to be reopened to grant an additional pay increase as long as the total pay increase for the program year does not exceed 7 percent and the new agreement is consistent with the pay standard as applied to new collective-bargaining agreements. If an agreement is reopened, may the unit also receive a non-COLA catch-up adjustment?

A. Yes, if the unit satisfies the criteria for a non-COLA catch-up.

Q. Are employee units covered during the first program year by pre-existing formal annual pay plans, as specified in Section 705B–4 (c and d), eligible for the non-COLA catch-up adjustment?

A. Yes, if the pay plan implemented during the first program year complies with the pay standard and does not have a COLA provision.

Q. Does this non-COLA catch-up adjustment apply to collective-bargaining units that renegotiate during the interim period?

A. Yes, if the previous agreement did not have a COLA clause and provided pay-rate increases that did not exceed 7 percent in the last year of the expiring contract.

III. Procedures

Q. Section 706.31 states that a compliance unit granted an exception for the first program year should submit a new request if it seeks to continue that exception for the second program year. Does this provision apply to compliance units that were required to seek Council approval of exceptions but were authorized by the Council to self-administer price exceptions during the first program year?

A. Yes.

[FR Doc. 79-31594 Filed 10-11-79; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

Section 22 Import Quotas; Price Determination for Certain Cheese

AGENCY: Foreign Agricultural Service.

ACTION: Final rule.

SUMMARY: The subpart, Section 22 Import Quotas, is amended to change the price, determined by the Secretary of Agriculture, which is used as a basis for establishing import restrictions under Section 22 on certain cheese. The change from $1.23 to $1.31 per pound is required since one of the factors used in determining such price (the Commodity Credit Corporation purchase price for Cheddar cheese under the milk support program) has been increased.

EFFECTIVE DATE: October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Carol M. Harvey, Head, Dairy and Import Group Dairy, Livestock and Poultry Division, Commodity Programs, Foreign Agricultural Service, Room 6616 South Agricultural Building, United States Department of Agriculture, Washington, D.C. 20250 (202) 447–5270.

SUPPLEMENTARY INFORMATION: Since the action taken herewith involves foreign affairs functions of the United States, it is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and effective date provisions of 5 U.S.C. 553 and E.O. 12044 is not required.

Effective Date

In accordance with headnote 3(a)(v) of Part 3 of the Appendix to the Tariff Schedules of the United States, the change in price effected by this amendment would not make the import restrictions contained in items 950.10B through 950.10E of Part 3 of the Appendix to the Tariff Schedules of the United States applicable to cheese having a purchase price of $1.23 or more per pound if such cheese had been exported to the United States on a through bill of lading or had been placed in a bonded warehouse on or before October 12, 1979.

The subpart, Section 22 Import Quotas of Part 6, Subtitle A of Title 7, is amended as follows:

1. Section 6.16, under the heading "Price Determination for Certain Quotas," is revised to read as follows:

§ 6.16 Price determination.

The price referred to in items 950.10B through 950.10E of Part 3 of the Appendix to the Tariff Schedules, determined by the Secretary of Agriculture in accordance with headnote 3(a)(v) of said Part 3, is $1.31 per pound. This price shall continue in effect until changed by amendment of this section.

Appendix 1 [Amended].

2. Group V of Appendix 1, under the heading "Licensing Regulations," is amended by changing the description appearing immediately below Group V to read as follows:

Cheese described below, if shipped otherwise than in pursuance to a purchase, or if having a purchase price under $1.31 per pound.

* * * * *

(Sec. 3, Stat. 1248, as amended, (7 U.S.C. 624); Part 3 of the Appendix to the Tariff Schedules of the United States, 19 U.S.C. 1202.)

Issued at Washington, D.C. this 9th day of October, 1979.

Bob Bergland,

Secretary.

[FR Doc. 79-31578 Filed 10-11-79 8:45 am]

BILLING CODE 3410-10-M

Federal Crop Insurance Corporation

7 CFR Part 421

Cotton Crop Insurance Regulations; Correction

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule; Correction.

SUMMARY: The final rulemaking published in the **Federal Register** on Friday, September 28, 1979 (44 FR 55792), on the Cotton Crop Insurance Regulations, contained an error in reference in the first section (7 CFR 421.1). This notice is being published to correct that error.

DATE: Effective October 12, 1979.

ADDRESS: Any suggestions or inquiries on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

The correction is as follows:

PART 421—COTTON CROP INSURANCE

1. The last sentence of § 421.1, found in the center column on page 55793 (44 FR 55793), is corrected as follows:

§ 421.1 Availability of cotton insurance.

* * * Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which cotton insurance will be offered.

* * * * *

Authority: Secs. 506, 516, 52 Stat. 73, as amended 77, as amended (7 U.S.C. 1506, 1516)

Issued in Washington, D.C., on October 4, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

James D. Deal,

Manager.

Dated: October 5, 1979.

[FR Doc. 79-31600 Filed 10-11-79; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 221]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period October 14–20, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 14, 1979.

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

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on October 9, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee

reports the demand for lemons is considered good.

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

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.

§ 910.521 Lemon Regulation 221

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period October 14, 1979 through October 20, 1979, is established at 200,000 cartons.

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

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

Dated: October 11, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-31794 Filed 10-11-79 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 966

Tomatoes Grown in Florida; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses for the functioning of the Florida Tomato Committee. It enables the committee to collect assessments from first handlers on all assessable tomatoes handled and to use the resulting funds for its expenses.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Peter G. Chapogas, (202) 447–5432.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 966, as amended (7 CFR Part 966), regulating the handling of tomatoes grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon other information, it is found that the expenses and rate of assessment which follows 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 provide 60 days for interested persons to file comments or to engage in public rulemaking, and that good cause exists for not postponing the effective date of this section 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 period shall apply to all assessable tomatoes handled from the beginning of such period. 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 held September 7, 1979, in Palm Beach, Florida. To effectuate the declared purposes of the act it is necessary to make these provisions effective as specified.

The budget and rate of assessment have not been determined significant under the USDA criteria for implementing Executive Order 12044.

Section 966.215 is hereby terminated and § 966.216 is added as follows:

§ 966.216 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1980, by the Florida Tomato Committee for its maintenance and functioning and for such other purposes as the Secretary may determine to be appropriate amount to $134,000.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be one-half cent ($0.005) per 30-pound container or equivalent quantity of tomatoes handled by him as the first handler thereof during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 966.44(a)(2).

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

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

Dated: October 5, 1979.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-31513 Filed 10-11-79; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1464

Tobacco Loan Program; 1979 Crop Grade Loan Rates—Virginia (Type 21) Fire-Cured Tobacco

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule establishes the schedule of grade loan rates which will apply to 1979-crop Virginia fire-cured (type 21) tobacco. The rule is needed to provide the statutory level of support for 1979-crop Virginia fire-cured tobacco. Eligible tobacco of this kind may be delivered for price support at the specified rates.

EFFECTIVE DATE: October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, (202) 447–6733.

SUPPLEMENTARY INFORMATION: On July 30, 1979, notice was published in the **Federal Register** (43 FR 44543) inviting written comments, not later than August 29, 1979, on a proposed schedule of grade loan rates for providing price support for 1979-crop Virginia fire-cured tobacco at the statutory level.

Section 106 of the Agricultural Act of 1949, as amended, prescribes a formula for computing, in cents per pound, the level of price support for each crop of any kind of tobacco for which marketing quotas are in effect or have not been disapproved by producers. Application of this formula requires that the 1979-crop of Virginia fire-cured tobacco be supported at the level of 90.4 cents per pound. Price support will be provided through loans to producer associations which will receive eligible tobacco from the producers and make price support advances to the producers for the tobacco received. The price support advances will be based on the grade loan rates, which average the required level of support when weighted by estimated grade percentages, in accordance with section 403 of the Act.

The price support advances for Virginia fire-cured, type 21 tobacco will be the amount determined by multiplying the pounds of each grade received by the respective grade loan rate less 1 cent per pound which the producers' association is authorized to deduct to apply against overhead costs.

It was also proposed to not make available price support on tobacco graded N2, which is tobacco of lower quality. This proposal was made in an attempt to discourage its marketing.

Discussion of Comments

During the comment period, 5 comments were received, all concurring with the loan schedule as proposed and agreeing that tobacco graded N2 should not be supported. Accordingly, it has been decided to adopt the schedule proposed and to not make price support available on N2 tobacco.

Final Rule

Accordingly, 7 CFR Part 1464 is amended by revising § 1464.17 to read as set forth below, effective for the 1979 crop of Virginia fire-cured tobacco. The material previously appearing under § 1464.17 remains applicable to the crop to which it refers.

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714b, 714c), secs. 101, 106, 401, 403, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1445, 1421, 1423).)

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 Robert L. Tarczy.

Signed at Washington, D.C., on October 2, 1979.

John W. Goodwin,

Acting Executive Vice President, Commodity Credit Corporation.

Section 1464.17 is revised to read as follows:

§ 1464.17 1979 Crop Fire-Cured Tobacco, Type 21, Grade Loan Schedule.[1]

Loan Rate

[Dollars per hundred pounds, farm sales weight]

Grade	Length 47	Length 46	Length 45	Length 44	Length 43
A1F	136	136	136		
A2F	133	134	134		
A1D	136	136	136		
A2D	133	134	134		
B1F	133	134	134		
B2F	126	126	127	122	
B3F	114	115	116	115	87
B4F	100	101	108	106	82
B5F	84	86	88	84	73
B1D	132	132	132		
B2D	126	126	127	122	
B3D	114	115	116	114	84

[1] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound) or scrap will not be accepted. The Association is authorized to deduct $1 per hundred pounds to apply against overhead cost.

Loan Rate—Continued

[Dollars per hundred pounds, farm sales weight]

Grade	Length 47	Length 46	Length 45	Length 44	Length 43
B4D	94	95	96	94	81
B5D	85	85	86	85	73
B3M	95	95	97	96	81
B4M	87	88	91	90	80
B5M	81	81	81	81	70
B3G	92	94	97	95	77
B4G	87	88	91	88	76
B5G	75	77	79	76	66
C1L	139	139	137		
C2L	135	135	135	130	
C3L	117	117	117	110	
C4L	96	98	101	97	
C5L	83	83	85	83	
C1F	139	139	138		
C2F	135	135	135	120	
C3F	119	119	119	115	
C4F	100	102	108	105	
C5F	84	85	87	84	
C2D	86	86	86	84	
C3D	81	81	81	78	
C4D	74	75	76	75	
C5D	66	67	67	66	
C3M	94	95	96	92	
C4M	86	87	91	90	
C5M	71	72	76	71	
C3G	77	78	79	75	
C4G	73	74	75	71	
C5G	67	68	70	68	

Grade	Loan rate
X1L	104
X1L	103
X3L	101
X4L	85
X5L	79
X1F	104
X2F	103
X3F	100
X4F	86
X5F	80
X1D	98
X2D	96
X3D	92
X4D	80
X5D	74
X3M	85
X3M 45	77
X4M	73
X4M 45	71
X5M	61
X5M 45	60
X3G	85
X3G 45	84
X4G	76
X4G 45	73
X5G	65
X5G 45	61
N1L	52
N1D	49
N1G	52
N2	[1]

[1] N2 is not eligible for price support.

[FR Doc. 79-31545 Filed 10-11-79; 8:45 am]

BILLING CODE 3410-05-M

Farmers Home Administration

7 CFR Part 1941

Operating Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations pertaining to Operating (OL) loan consolidation and rescheduling. The intended effect of this action is to emphasize that any operating loan in existence at the time another operating loan is made should be consolidated and rescheduled in one note. OL loans secured by real estate will not be consolidated or rescheduled unless County Supervisor determines it to be in the best interests of the Government and the borrower. This action is taken as a result of an administrative decision based in part on recommendations received from the General Accounting Office.

EFFECTIVE DATE: Effective on October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Ron Thelen, Production Loan Officer, Production Loan Division 202-447-2288.

SUPPLEMENTARY INFORMATION: On April 20, 1979 FmHA published a proposal in the **Federal Register** (44 FR 23536) to amend § 1941.18(c)(2)(i) of Subpart A of Part 1941, Chapter XVIII, Title 7, Code of Federal Regulations. The proposal required that any OL loan in existence at the time another loan is made would be consolidated and rescheduled. This policy has been modified to encourage such consolidation and rescheduling rather than require it.

One comment was received from the Small Business Administration which inquired about the effect of the proposed changes on small businesses. FmHA does not anticipate any significant adverse impacts on small businesses as a result of this action.

Accordingly, as amended, § 1941.18(c)(2)(i) of Subpart A of Part 1941 reads as follows:

§ 1941.18 Rates and terms.

* * * * *

(c) *Consolidation, rescheduling and deferral.*

* * * * *

(2) *Consolidation and rescheduling.* (i) Any OL loan in existence at the time another loan is made should be consolidated and rescheduled. OL loans secured by real estate will not be consolidated or rescheduled unless the County Supervisor reviews the Government's real estate lien priority and value of security and determines such an action will be in the best interests of the Government and the borrower.

* * * * *

This document has been reviewed in accordance with FmHA Instruction 1901-G "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action

significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969 Pub. L. 91–190 an Environmental Impact Statement is not required.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6346, Washington, D.C. 20250.

(7 U.S.C. 1939; delegation of authority by the Sec. of Agriculture, 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: September 24, 1979.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 79-31543 Filed 10-11-79; 8:45 am]

BILLING CODE 3410-07-M

---

7 CFR Part 1980

Business and Industrial Loan Program; Amendment

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations pertaining to the Business and Industrial (B&I) loan program. The intended effect of this action is to reflect the transfer of responsibility from FmHA to the Rural Electrification Administration (REA) for financing all community antenna television services or facilities (CATV). This action is needed because of a change in the authorities delegated by the Secretary of Agriculture.

EFFECTIVE DATE: May 25, 1979.

FOR FURTHER INFORMATION CONTACT: Darryl H. Evans, Director, Business Management and Development Division, telephone 202–447–4150.

SUPPLEMENTARY INFORMATION: Section 1980.412 of Subpart E of Part 1980, Chapter XVIII, Title 7, Code of Federal Regulations is amended to add a new subparagraph (g) to ineligible loan purposes. This revision to the FmHA regulations is necessary to comply with the Secretary of Agriculture's Delegation of Authority published in the **Federal Register** on May 25, 1979 (44 FR 30313). Under that delegation of authority REA has assumed all authority and responsibility for financing CATV projects.

This action was taken to implement the President's Policy for Rural Development Initiatives for improving rural communications by providing financing of facilities for television as well as other telecommunication services. It was felt that CATV projects more closely fit the REA mission than FmHA's broader objectives and job creation criteria. In addition, the REA has the necessary expertise to handle these types of projects. To properly finance the projects, funding authority from FmHA has been transferred to REA. Any applications that were not obligated by FmHA before May 25, 1979, have been transferred to REA for consideration. FmHA will continue to service CATV loans which were closed prior to May 25, 1979.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 533 with respect to such rules. This amendment, however, is not published for proposed rulemaking since this change is procedural in nature and merely complies with the published rule which set forth the transfer of authority from FmHA to REA. Therefore, public participation is unnecessary. The official responsible for this determination is Darryl H. Evans.

Accordingly, § 1980.412 of Subpart E of Part 1980 is amended by adding a new paragraph (g) which reads as follows:

§ 1980.412 Ineligible loan purposes.

* * * * *

(g) For financing community antenna television services or facilities.

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary of Agriculture for Rural Development, 7 CFR 2.70)

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

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, Washington, DC. 20250.

Dated: September 17, 1979.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 79-31544 Filed 10-11-79; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 92

Restrictions on Importation of Horses From Italy

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document extends to Italy the prohibitions previously placed on the importation into the United States of certain horses from or that have been in countries affected with contagious equine metritis (CEM). This action is necessary to protect the livestock of the United States from such disease.

EFFECTIVE DATE: The foregoing amendment shall become effective October 5, 1979, except for horses then in transit to the United States from Italy (i.e., loaded aboard a commercial carrier and en route to the United States).

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION: On September 9, 1977 (42 FR 45895) a prohibition was placed on the importation into the United States of certain horses from England, Ireland, and France and the importation into the United States of certain horses that have been in such countries within the 60 days immediately preceding their export to the United States because of the existence of CEM in such countries. On September 16, 1977 (42 FR 48327–48328), the prohibition was extended to include Australia and all of the United Kingdom (England Scotland, Northern Ireland, Wales, and Isle of Man); and on November 30, 1978 (43 FR 56876) the prohibition was again extended to include Belgium and the Federal

Republic of Germany. On December 8, 1977 (42 FR 63384–63385) an amendment extended the specified period as a condition for entry of such horses which have been in countries infected with CEM listed under § 92.2 (i) of Title 9, Code of Federal Regulations from 60 days to 12 months. This action was taken to protect the livestock of the United States against the introduction and dissemination of CEM, a communicable disease of horses, into the United States. CEM has now been found to exist in Italy and prohibitions on the importation of certain horses from or that have been in that country within 12 months immediately preceding their export to the United States are hereby placed in effect. The same restrictions that now apply to horses from Australia, Ireland, France, the United Kingdom, Belgium, and the Federal Republic of Germany are hereby placed on the importation of certain horses from or that have been in Italy. Dr. G. V. Peacock, Director, National Programs Planning Staffs, VS, APHIS, USDA, has determined this amendment to be of an emergency nature and should be placed in effect immediately.

Accordingly, Part 92, Code of Federal Regulations, is amended in the following respects:

In § 92.2 paragraph (i)(1) is amended to read:

§ 92.2 General prohibitions; exceptions.

* * * * *

(i)(1) Except as provided in paragraph (i) (2) of this section notwithstanding the other provisions of this part concerning the importation of horses into the United States, the importation of all horses from the following listed countries and the importation of all horses which have been in any such country within the 12 months immediately preceding their export to the United States is prohibited because of the existence of CEM in such countries: Australia, Belgium, Ireland, Italy, Federal Republic of Germany, France, and the United Kingdom (England Scotland, Northern Ireland, Wales, and the Isle of Man).

(Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132 (21 U.S.C. 111, 134c, 134f); 37 FR 28464, 28477; 38 FR 19141.)

This emergency final rule imposes additional restrictions on the importation of certain horses from Italy into the United States. The amendment is of an emergency nature and should be placed in effect immediately in order to protect the livestock of the United States from the introduction and dissemination of disease.

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

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

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

Done at Washington, D.C. this 5th day of October 1979.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-31435 Filed 10-11-79; 8:45 am]

BILLING CODE 3410-34-M

---

9 CFR Part 113

Standard Requirements; Miscellaneous Amendments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment adds two new sections to the standard requirements of the regulations under the Virus-Serum-Toxin Act regarding the purity, safety, potency, and efficacy to be met by all biological products containing Feline Calicivirus Vaccine and Feline Rhinotracheitis Vaccine, and one new section regarding a purity test for the detection of chlamydial agents (microorganisms of the genus Chlamydia). The test for chlamydial agents that now appears in the individual standard requirements for Feline Panluekopenia Vaccine is deleted and reference is made to the new section containing this test. This amendment also revises the cat safety test prescribed in the regulations for testing vaccines recommended for use in cats by adding an additional test to be used in testing Master Seed Virus. At the present time, such test appears in each Outline of Production for such products filed by biologics establishments with Veterinary Services. This amendment makes available to all licensees a uniform test for testing Master Seed Virus.

EFFECTIVE DATE: This amendment becomes effective February 11, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. R. J. Price, Biologics, Licensing and Standards Staff, USDA, APHIS, VS, Room 827, Federal Building, Hyattsville, MD 20782, 301–436–8245.

SUPPLEMENTARY INFORMATION: The standard requirements found in Part 113 of the regulations consist of test methods, procedures, and criteria established by Veterinary Services for evaluating biological products for purity, safety, potency, and efficacy. Until such standard requirements are developed by Veterinary Services and are codified in the regulations, the test methods, procedures, and criteria used in the evaluation of a product are developed by the licensee and are written into the applicable Outline of Production which is required to be filed with Veterinary Services.

When standard requirements for evaluating a biological product have been developed by Veterinary Services, they are proposed for codification in the regulations. Such codification assures uniformity and general availability of such requirements to all licensees and to the general public.

This amendment adds two new sections to the regulations (§§ 113.149 and 113.150) that contain the standard requirements for evaluating all licensed biological products containing Feline Calicivirus Vaccine and Feline Rhinotracheitis Vaccine, and one new section (§ 113.43) regarding the detection of chlamydial agents. It also amends § 113.39 by adding a cat safety test for use in the evaluation of Master Seed Virus used to make cat vaccines.

A test for chlamydial agents already appears in the standard requirement for Feline Panleukopenia Vaccine in § 113.139. New § 113.43 (Detection of chlamydial agents) results in the deletion of the chlamydial agent test from § 113.139 and adds to that section language stating that the test for chlamydial agents shall be conducted according to § 113.43.

On May 12, 1978, the Animal and Plant Health Inspection Service published the proposed amendment to the regulations under the Virus-Serum-Toxin Act at 43 FR 20506. A 60-day period was designated for the purpose of inviting public comment.

Further experience with the testing of these vaccines during the comment period, however, indicated that modification of the original proposal was needed to make evaluation of the

results less subjective. The Department, therefore, decided to modify the proposal of May 12, 1978, and on February 16, 1979, a notice of the proposed amendment to Part 113 was republished in the **Federal Register** at 44 FR 10071.

Comments on this second proposal were solicited and seven responses were received, all of which supported the proposal. Two of the responses stated the proposal was satisfactory without change. Two responses suggested that the number of control cats that are required to respond to challenge in §§ 113.149(c)(3)(i) and 113.150(c)(3)(i) be changed from "8 of 10" to "10 of 10" and those that are required to respond to challenge in §§ 113.149(c)(4)(i) and 113.150(c)(4)(i) be changed from "5 of 6 or 3 of 3" to "6 of 6 or 3 of 3." This suggestion was rejected, since it would make the test more restrictive and would significantly increase the number of inconclusive tests. One response suggested that the method of statistical evaluation used to evaluate the test results should be prescribed in the Outline of Production. This suggestion was rejected, since it would restrict the flexibility provided by the amendment and such restriction is not considered to be necessary for valid evaluation of results.

Five of the responses included suggestions for changes that were considered to be appropriate and constructive. These have been incorporated in this final rule and are explained in the discussion of changes below.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158), the Amendment of Part 113, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notice, is hereby adopted with the following exceptions:

The method of evaluating test results in § 113.39(a)(3) has been amended by providing that the test may be repeated if unfavorable reactions occur that are not attributable to the product. This change adds flexibility to the test without affecting the validity of the results and makes the method of evaluation consistent with § 113.39(b)(2).

Section 113.43(a)(1) has been amended to permit greater flexibility with regard to the use of the antibiotics Streptomycin, Vancomycin, and Kanamycin. Changes will permit the use of one or a combination of these antibiotics, rather than requiring that all three be included in the inoculum. Flexibility has also been provided concerning the amount of each antibiotic to be used by changing "2 mg/ml" to "not more than 2 mg/ml." Experience indicates this test can be conducted satisfactorily without the use of all three of these antibiotics and that lower levels of each can also be used without affecting the results.

Sections 113.149(c)(3) and 113.150(c)(3) have been amended by changing the time of challenge from "twenty-one days" to "twenty-one or more days" after the final dose of vaccine. This change provides the flexibility needed to permit the use of sequential challenge procedures which will allow licensees to conduct Master Seed immunogenicity tests for both feline rhinotracheitis virus and feline calicivirus in the same group of test cats.

The use of this sequential challenge procedure will result in considerable cost saving in the conduct of the test without affecting the validity of the results. The method of titration indicated for challenge material in these sections has also been amended by changing "$TCID_{50}$" to "$TCID_{50}$ or plaque forming units." This change will permit the use of plaquing techniques for titration of challenge materials without affecting results, since results by both procedures are comparable.

Editing changes have been made in §§ 113.149(c)(3)(i), 113.149(c)(4)(i), 113.150(c)(3)(i), and 113.150(c)(4)(i) to clarify the intended meaning. The statements concerning the number of controls that are required to respond for a valid test have been rewritten to be positive statements. The intended meaning of these statements has also been clarified to be consistent with §§ 113.149(c)(3) and 113.150(c)(3), respectively, by changing "signs of feline calicivirus infection" and "signs of feline rhinotracheitis virus" to "clinical signs of feline calicivirus infection other than fever" and "clinical signs of feline rhinotracheitis infection other than fever," respectively. It was intended in the proposed amendment that since fever is not a specific sign of feline rhinotracheitis virus of feline calicivirus infection, it not be acceptable as the only response in controls. This change clarifies this intent.

The reference in §§ 113.149(d)(1) and 113.150(d)(1) to the cat safety test has been amended to improve clarity by changing "113.39" to "113.39(b)."

"Five controls" has been changed to "6 controls" in § 113.150(c)(4) to correct an error in the proposed amendment so that the number of controls used is consistent with § 113.150(c)(4)(i).

The procedures for establishing the susceptibility of test cats in § 113.150(c)(1) has been revised to be consistent with § 113.149(c)(1) by adding the requirement that throat swabs be collected from each cat and tested individually on susceptible cell cultures for the presence of feline rhinotracheitis virus.

This change corrects an error in the proposed amendment and makes changes that are essential to assure the validity of the test results.

The first letter of each word in the headings for §§ 113.139, 113.149, and 113.150 shall be capitalized.

1. Section 113.39 is amended by revising the introductory portion, by revising paragraph (a), by adding new paragraphs (a)(1) and (a)(2), and by adding a new paragraph (b) to read:

"§ 113.39 Cat safety tests.

The safety tests provided in this section shall be conducted when prescribed in a standard requirement or in the filed Outline of Production for a biological product recommended for use in cats.

(a) The cat safety test provided in this paragraph shall be used when the Master Seed Virus is tested for safety.

(1) The test animals shall be determined to be susceptible to the virus under test as follows:

(i) Throat swabs shall be collected from each cat and individually tested on susceptible cell cultures for the presence of the virus. Blood samples shall also be drawn and individual serum samples tested for antibody to the virus.

(ii) The cats shall be considered susceptible if swabs are negative for virus isolation and the serums are free of virus antibody at the 1:2 final dilution in a 50 percent plaque reduction test or other serum-neutralization test of equal sensitivity.

(iii) When determining susceptibility to a virus which does not lend itself to the methods in paragraphs (a)(1)(i) and (ii) of this section, a method acceptable to Veterinary Services shall be used.

(2) Each of at least 10 susceptible cats shall be administered a sample of the Master Seed Virus equivalent to the amount of virus to be used in one cat dose of the vaccine, by the method to be recommended on the label, and the cats observed each day for 14 days.

(3) If unfavorable reactions attributable to the virus occur in any of the cats during the observation period, the Master Seed Virus is unsatisfactory. If unfavorable reactions occur which are not attributable to the Master Seed Virus, the test shall be declared inconclusive and repeated; *Provided,*

That, if not repeated, the Master Seed Virus shall be unsatisfactory.

(b) The cat safety test provided in this paragraph shall be used when a serial of vaccine is tested for safety before release.

(1) Each of two healthy cats shall be administered 10 cat doses by the method recommended on the label and the cats observed each day for 14 days.

(2) If unfavorable reactions attributable to the biological product occur during the observation period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated; *Provided*, That, if not repeated, the serial shall be unsatisfactory.

2. Part 113 is amended by adding three new sections to read:

§ 113.43 Detection of chlamydial agents.

The test for chlamydial agents provided in this section shall be conducted when such a test is prescribed in an applicable standard requirement or in a filed Outline of Production.

(a) The yolk sac of 6-day-old chicken embryos shall be injected. Three groups of 10 embryos shall be used sequentially.

(1) The inoculum for each embryo in the first group shall consist of 0.5 ml of a mixture of equal parts of the seed virus with phosphate buffered saline that may contain Streptomycin, Vancomycin, Kanamycin, or a combination thereof. Not more than 2 mg/ml of each antibiotic shall be used.

(2) On the 10th day postinoculation, the yolk sac of viable embryos shall be harvested, pooled, homogenized as a 20 percent suspension in phosphate buffered saline antibiotic diluent, and 0.5 ml of the mixture injected into the second group of chicken embryos. This process shall be repeated for the injection of the third group of embryos using the yolk sacs of viable embryos from the second group.

(3) For each of the three passages, embryo deaths occurring within 48 hours of injection shall be disregarded, except that if more than three such deaths occur at any passage, that passage shall be repeated.

(b) If one or more embryo deaths occur at any passage after 48 hours postinjection, the yolk sacs from each of the dead embryos shall be subcultured into 10 additional embryos. If one or more embryo deaths again occur due to chlamydial agents, the Master Seed Virus is unsatisfactory for use to produce vaccine.

§ 113.149 Feline Calicivirus Vaccine.

Feline Calicivirus Vaccine shall be prepared from virus-bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135.

(b) The Master Seed Virus shall be tested for chlamydial agents as prescribed in § 113.43.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus shall be established as follows:

(1) Thirty feline calicivirus susceptible cats shall be used as test animals (20 vaccinates and 10 controls). Throat swabs shall be collected from each cat and individually tested on susceptible cell cultures for the presence of feline calicivirus. Blood samples shall be drawn and individual serum samples tested. The cats shall be considered suitable for use if all swabs are negative for virus isolation and if all serums are negative for calicivirus antibody at the 1:2 final dilution in a 50 percent plaque reduction test or other SN test of equal sensitivity.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. The 20 cats used as vaccinates shall be administered a predetermined quantity of vaccine virus by the method to be recommended on the label and the remaining 10 cats shall be held as controls. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used. If two doses are used, five replicate conforming titrations shall be conducted on each dose.

(3) Twenty-one or more days after the final dose of vaccine, the vaccinates and controls shall each be challenged intranasally with a minimum of 100,000 $TCID_{50}$ or plaque forming units of virulent feline calicivirus furnished or approved by Veterinary Services and observed each day for 14 days postchallenge. The rectal temperature of each animal shall be taken and the presence or absence of clinical signs, particularly lesions on the oral mucosa, noted and recorded each day.

(i) If less than 8 of 10 controls show clinical signs of feline calicivirus infection other than fever, the test is inconclusive and may be repeated.

(ii) If a significant difference in clinical signs cannot be demonstrated between vaccinates and controls using a scoring system approved by Veterinary Services and prescribed in the Outline of Production, the Master Seed Virus is unsatisfactory.

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter, unless use of the lot previously tested is discontinued. Either 10 vaccinates and 6 controls or 5 vaccinates and 3 controls shall be used in the retest.

(i) If less than 5 of 6 or 3 of 3 of the controls in the retest show clinical signs of feline calicivirus infection other than fever, the test is inconclusive and may be repeated.

(ii) A significant difference in clinical signs shall be demonstrated between vaccinates and controls in a valid test as prescribed in paragraph (c)(3)(ii) of this section.

(5) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) *Test requirements for release.* Each serial and subserial shall meet the requirements prescribed in § 113.135 and in this paragraph. Final container samples of completed product shall be tested. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Safety test.* The mouse safety test prescribed in § 113.33(a) and the cat safety test prescribed in § 113.39(b) shall be conducted.

(2) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in such immunogenicity test but not less than $10^{3.5}$ $TCID_{50}$ or plaque forming units per dose.

§ 113.150 Feline Rhinotracheitis Vaccine.

Feline Rinotracheitis Vaccine shall be prepared from virus-bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the

fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135.

(b) The Master Seed Virus shall be tested for chlamydial agents as prescribed in § 113.43.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus shall be established as follows:

(1) Thirty feline rhinotracheitis susceptible cats shall be used as test animals (20 vaccinates and 10 controls). Throat swabs shall be collected from each cat and individually tested on susceptible cell cultures for the presence of feline rhinotracheitis virus. Blood samples shall be drawn and individual serum samples tested. The cats shall be considered suitable for use if all swabs are negative for virus isolation and if all serums are negative for feline rhinotracheitis virus antibody at the 1:2 final dilution in a 50 percent plaque reduction test or other SN test of equal sensitivity.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. The 20 cats used as vaccinates shall be administered a predetermined quantity of vaccine virus by the method to be recommended on the label and the remaining 10 cats shall be held as controls. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used. If two doses are used, five replicate confirming titrations shall be conducted on each dose.

(3) Twenty-one or more days after the final dose of vaccine, the vaccinates and controls shall each be challenged intranasally with a minimum of 100,000 $TCID_{50}$ or plaque forming units of virulent feline rhinotracheitis virus furnished or approved by Veterinary Services and observed each day for 14 days post-challenge. The rectal temperature of each animal shall be taken and the presence of respiratory or other clinical signs of feline rhinotracheitis noted and recorded each day.

(i) If less than 8 of 10 controls show clinical signs of feline rhinotracheitis infection other than fever, the test is inconclusive and may be repeated.

(ii) If a significant difference in clinical signs cannot be demonstrated between vaccinates and controls using a scoring system approved by Veterinary Services and prescribed in the Outline of Production, the Master Seed Virus is unsatisfactory.

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter, unless use of the lot previously tested is discontinued. Either 10 vaccinates and 6 controls or 5 vaccinates and 3 controls shall be used in the retest.

(i) If less than 5 of 6 or 3 of 3 of the controls in the retest show clinical signs of feline rhinotracheitis infection other than fever, the test is inconclusive and may be repeated.

(ii) A significant difference in clinical signs shall be demonstrated between vaccinates and controls in a valid test as prescribed in paragraph (c)(3)(ii) of this section.

(5) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) *Test requirements for release.* Each serial and subserial shall meet the requirements prescribed in § 113.135 and in this paragraph. Final container samples of completed product shall be tested. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Safety test.* The mouse safety test prescribed in § 113.33(a) and the cat safety test prescribed in § 113.39(b) shall be conducted.

(2) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in such immunogenicity test but not less than $10^{3.5}$ $TCID_{50}$ or plaque forming units per dose.

3. Section 113.139 is amended by revising the introductory portion of paragraph (b)(2) and deleting subparagraphs (b)(2)(i), (ii), (iii), and (iv) to read:

§ 113.139 Feline Panleukopenia Vaccine.

* * * * *

(b) * * *

(2) To detect chlamydial agents, the Master Seed Virus shall be tested as prescribed in § 113.43.

(c) * * *

* * * * *

(21 U.S.C. 151 and 154; 37 FR 28477, 28646; 38 FR 19141.)

Done at Washington, D.C., this 4th day of October 1979.

Note.—This rule has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations." Under those criteria, this action has been designated for Agency oversight. A Final Impact Analysis Statement has been prepared and is available from USDA, APHIS, VS, Room 827, Federal Building, Hyattsville, MD 20782.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-31434 Filed 10-11-79; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Office of Energy Research

10 CFR Part 320

University Coal Research Laboratories Program

AGENCY: Office of Energy Research, DOE.

ACTION: Final rule.

SUMMARY: The following amendments are made to the Final Rule on the University Coal Research Laboratories Program (10 CFR Part 320) published at 44 FR 25592, May 1, 1979: These amendments are made for the purpose of providing additional time for the submission of proposals from interested educational institutions while the status of the budget request to initiate the University Coal Research Laboratories Program in FY 1980 is resolved and to correct certain numbering sequence errors in one section of the Final Rule.

EFFECTIVE DATE: October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Richard E. Stephens, Director, Division of Institutional Programs, Office of Field Operations Management, Office of Energy Research, Department of Energy, 400 First Street, NW, Room 501, Washington, D.C. 20585, (202) 376-9188.

SUPPLEMENTARY INFORMATION:

10 CFR Part 320 is amended as follows:

1. Section 320.8(d) is amended by revising the last sentence to read as follows:

§ 320.8 Content of proposals.

* * * * *

(d) * * * A minimum of 90 days will be provided for the preparation and submission of proposals.

§ 320.10 [Amended]

2. Section 320.10(a)(4) is amended by renumbering the second subparagraph (iii) ("Reasonableness") as (iv) and

renumbering existing (iv) and (v) as (v) and (vi), respectively.

3. In the newly designated § 320.10(a)(4)(vi) delete the words "Title III" and insert "Title VIII".

Issued in Washington, D.C., October 1, 1979.

N. Douglas Pewitt,

Acting Director of Energy Research.

[FR Doc. 79-31633 Filed 10-11-79; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9093]

American Dental Association, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, provides that on entry of a final adjudicated order in the *American Medical Association (AMA)* case, four dental associations (ADA) will be bound to a similar order which will be issued against them by the Commission. During the period preceding final resolution of the *AMA* case, the dental associations are prohibited from restricting or declaring unethical any form of their members' advertising or solicitation of business which is not false or misleading. Additionally, the dental associations are required to print a statement in their code of ethics which advises members that advertising or solicitation of patients and business shall not be considered unethical or improper.

DATES: Complaint issued January 4, 1977. Decision issued September 6, 1979.[1]

FOR FURTHER INFORMATION CONTACT: FTC/C, Alfred F. Dougherty, Jr., Washington, D.C. 20580. (202) 523-3601.

SUPPLEMENTARY INFORMATION: On Tuesday, May 1, 1979, there was published in the **Federal Register**, 44 FR 25465, a proposed consent agreement with analysis In the Matter of American Dental Association, a corporation, Indiana Dental Association, a corporation, Indianapolis District Dental Society, a corporation, Virginia Dental Association, a corporation, and Northern Virginia Dental Society, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.367 Members. Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.472 To restrain cooperatives activities. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-40 Furnishing information to media; 13.533-60 Release of general, specific, or contractual constrictions, requirements, or restraints.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

Carol M. Thomas,

Secretary.

[FR Doc. 79-31574 Filed 10-11-79; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. 8922]

Beneficial Corp., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, Wilmington, Del. and Morristown, N.J. sellers of personal income tax preparation services to cease misrepresenting the terms and conditions of its guarantees, using the terms "instant tax refunds," or "immediate tax refund;" misrepresenting the competence or ability of their tax preparing personnel, and misusing confidential information obtained from taxpayer customers.

DATES: Complaint issued April 10, 1973. Decision issued September 12, 1979.[1]

FOR FURTHER INFORMATION CONTACT: FTC/P, Albert H. Kramer, Washington, D.C. 20580. (202) 523-3727.

SUPPLEMENTARY INFORMATION: On Thursday, June 21, 1979, there was published in the **Federal Register** 44 FR 36202, a proposed consent agreement with analysis In the Matter of Beneficial Corporation, a corporation, and Beneficial Management Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1490 Nature; § 13.1520 Personnel or staff; § 13.1535 Qualifications.—Goods: § 13.1647 Guarantees; § 13.1725 Refunds; § 13.1740 Scientific or other relevant facts; § 13.1760 Terms and conditions. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1870 Nature; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions. Subpart-Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.1980 Guarantee, in general; § 13.2040 Returns and reimbursements; § 13.2063 Scientific or other relevant facts. Subpart-Securing Information By Subterfuge: § 13.2168 Securing information by subterfuge.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc. 79-31573 Filed 10-11-79; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and Decision and Order filed with the original document.

[1] Copies of the Decision and Order filed with the original document.

16 CFR Part 13

[Docket No. 9054]

Jay Norris Corp., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order conforms an order issued on May 2, 1978 to court-approved modifications by revising Part I of the original order to reflect that the term "full purchase price," excludes postage incurred in placing an order or requesting a refund; and deleting Paragraph 6; and by changing the notification period for corporate changes from the 30 days originally provided to five days.

DATES: Final order issued May 2, 1978. Modifying order issued September 10, 1979.[1]

FOR FURTHER INFORMATION CONTACT: Leroy Richie, Director, 8R, New York Regional Office, Federal Trade Commission, 2243–EB Federal Bldg., 26 Federal Plaza, New York, N.Y. 10007, (212) 264–1207.

SUPPLEMENTARY INFORMATION: In the Matter of Jay Norris Corp., et al. Codification under 16 CFR Part 13, appearing at 43 FR 33900, remains unchanged.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

The Order Conforming Previous Final Order To Court Approved Modifications is as follows:

[Docket No. 9054]

Jay Norris Corp., et al.; Order Conforming Previous Final Order to Court Approved Modifications

After the Commission issued a cease and desist order in this matter on May 2, 1978, the respondents named in the order filed a petition for review of the order in the United States Court of Appeals for the Second Circuit. By motion dated February 21, 1979, the parties jointly requested the Court to modify Part I, Paragraph 2 and Part III, Paragraph 2 of the Commission's order and affirm the Commission's order as so modified (with the exception of Part I, Paragraph 6 of the order, which respondents continued to contest in the court proceeding). By consenting to the modified order the respondents agreed to severance of Part I, Paragraph 6 for purposes of finality so that the balance of the order would become immediately final and enforceable upon approval by the Court of the stipulated modifications. The "agreement" submitted to the Court with the joint motion also provided that "[u]pon entry of the Court's Order affirming the stipulation the Commission will enter a new Administrative Order in conformity with said Order."

On May 1, 1979, the Court of Appeals, *inter alia*, approved the stipulated modifications.[1] Accordingly, the Commission hereby enters the following order incorporating the modifications agreed to by the parties and approved by the Court.

ORDER

I

It is ordered, That Jay Norris Corp., a corporation, its successors and assigns, and Joel Jacobs and Mortimer Williams, individually and as officers of said corporation, and respondents' officers, agents, representatives and employees directly or through any corporation, subsidiary, division, trade style, or other device, in connection with the advertising, offering for sale, sale and distribution of general mail-order merchandise in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to refund the amount required by Paragraph 2, in connection with the return of merchandise purchased from respondents, within the time specified in respondents' advertisements. If no time is specified, such refund must be made within the time specified in Paragraph 5(E)(4) of this Part.

2. Failing to refund the full purchase price of merchandise including postage, insurance, handling, shipping, or any other fee or charge paid by the purchaser any time a refund is made to such purchaser, unless respondents clearly state in their advertisement the exact nature of the refund including any items of the purchaser's expense that will not be refunded: *Provided*, That the term full purchase price as used herein shall exclude postage incurred in ordering an item from respondents or in requesting a refund thereof.

3. (A) Soliciting any order for the sale of merchandise to be ordered by the buyer through the mails unless, at the time of the solicitation, respondents have a reasonable basis to expect that they will be able to ship any ordered merchandise to the buyer: (1) Within the time clearly and conspicuously stated in any such solicitation, or (2) if no time is clearly and conspicuously stated, within thirty (30) days after receipt of a properly completed order from the buyer; and

(B) Providing any buyer with any revised shipping date, as provided in Paragraph 4 of this part unless, at the time any such revised shipping date is provided, respondents have a reasonable basis for making such representation regarding a definite revised shipping date; or

(C) Informing any buyer that they are unable to make any representation regarding the length of any delay unless (1) respondents have a reasonable basis for so informing the buyer and (2) respondents inform the buyer of the reason or reasons for the delay.

For purposes of this Order, the failure of respondents to have records or other documentary proof establishing their use of systems and procedures which assure the shipment of merchandise in the ordinary course of business within any applicable time set forth in this Order will create a rebuttable presumption that the respondents lacked a reasonable basis for any expectation of shipment within said applicable time.

4. (A) Where respondents are unable to ship merchandise within the applicable time set forth in Paragraph 3(A) above, failing to offer to the buyer, clearly and conspicuously and without prior demand, an option either to consent to a delay in shipping or to cancel his order and receive a prompt refund. Said offer shall be made within a reasonable time after respondents first become aware of their inability to ship within the applicable time set forth in Paragraph 3(A), but in no event later then said applicable time.

(1) Any offer to the buyer of such an option shall fully inform the buyer regarding his right to cancel the order and to obtain a prompt refund and shall provide a definite revised shipping date, but where respondents lack a reasonable basis for providing a definite revised shipping date the notice shall inform the buyer that respondents are unable to make any representation regarding the length of the delay.

(2) Where respondents have provided a definite revised shipping date which is thirty (30) days or less later than the

[1] Copies of the Order Conforming Previous Final Order To Court Approved Modifications filed with the original document.

[1] The Court also rejected respondents' challenges to Part I, Paragraph 6, of the Commission's order, although it ordered changes in the wording of the language for purposes of clarification. That provision is not final as respondents have received from Mr. Justice Marshall of the United States Supreme Court an extension of time until September 14, 1979, for the filing of a petition for writ of certiorari. Part I, Paragraph 6 will be the subject of a separate administrative order if and when it becomes final in accordance with 15 U.S.C. 45(g).

applicable time set forth in Paragraph 3(A), the offer of said option shall expressly inform the buyer that, unless respondents receive, prior to shipment and prior to expiration of the definite revised shipping date, a response from the buyer rejecting the delay and cancelling the order, the buyer will be deemed to have consented to a delayed shipment on or before the definite revised shipping date.

(3) Where the respondents have provided a definite revised shipping date which is more than thirty (30) days later than the applicable time set forth in Paragraph 3(A), or where the respondents are unable to provide a definite revised shipping date and therefore inform the buyer that they are unable to make any representation regarding the length of the delay, the offer of said option shall also expressly inform the buyer that his order will automatically be deemed to have been cancelled unless (a) respondents have shipped the merchandise within thirty (30) days of the applicable time set forth in Paragraph 3(A) above, and have received no cancellation prior to such shipment, or (b) respondents have received from the buyer within thirty (30) days of said applicable time, a response specifically consenting to said shipping delay. Where the respondents inform the buyer that they are unable to make any representation regarding the length of the delay, the buyer shall be expressly informed that, should he consent to an indefinite delay, he will have a continuing right to cancel his order at any time after the applicable time set forth in Paragraph 3(A) by so notifying respondents prior to actual shipment.

(4) Nothing in this paragraph shall prohibit respondents when they furnish a definite revised shipping date to Paragraph 4(A)(1) above, from requesting, simultaneously with or at any time subsequent to the offer of an option pursuant to Paragraph 4(A), the buyer's express consent to a further unanticipated delay beyond the definite revised shipping date. *Provided, however,* That where respondents solicit consent to an unanticipated indefinite delay the solicitation shall expressly inform the buyer that, should he so consent to an indefinite delay, he shall have a continuing right to cancel his order at any time after the definite revised shipping date by so notifying respondents prior to actual shipment.

(B) Where respondents are unable to ship merchandise on or before the definite revised shipping date provided under Paragraph 4(A)(1), and consented to by the buyer pursuant to Paragraphs 4(A)(2) and 4(A)(3), failing to offer to the buyer, clearly and conspicuously and without prior demand, a renewed option either to consent to a further delay or to cancel the order and to receive a prompt refund. Said offer shall be made within a reasonable time after respondents first become aware of their inability to ship before the said definite revised date, but in no event later than the expiration of the definite revised shipping date. *Provided, however,* That where respondents previously have obtained the buyer's express consent to an unanticipated delay until a specific date beyond the definite shipping date, pursuant to Paragraph 4(A)(4) or to a further delay until a specific date beyond the definite revised shipping date pursuant to Paragraph 4(b), that date to which the buyer has expressly consented shall supersede the definite revised shipping date for purposes of Paragraph 4(b).

(1) Any offer to the buyer of said renewed option shall provide the buyer with a new definite revised shipping date, but where respondents lack a reasonable basis for providing a new definite revised shipping date, the notice shall inform the buyer that respondents are unable to make any representation regarding the length of the further delay.

(2) The offer of a renewed option shall expressly inform the buyer that, unless respondents receive, prior to the expiration of the old definite revised shipping date or any date superseding the old definite revised shipping date, notification from the buyer specifically consenting to the further delay, the buyer will be deemed to have rejected any further delay, and to have cancelled the order if respondents are in fact unable to ship prior to the expiration of the old definite revised shipping date or any date superseding the old definite revised shipping date. *Provided, however,* That where respondents offer the buyer the option to consent to an indefinite delay the offer shall expressly inform the buyer that, should he so consent to an indefinite delay, he shall have a continuing right to cancel his order at any time after the old definite revised shipping date or any date superseding the old definite revised shipping date.

(3) Paragraph 4(B) shall not apply to any situation where respondents, pursuant to the provisions of Paragraph 4(A)(4), have previously obtained consent from the buyer to an indefinite extension beyond the first revised shipping date.

(C) Whenever a buyer has the right to exercise any option under this Order or to cancel an order by so notifying respondents prior to shipment, failing to furnish the buyer with adequate means, at respondents' expense, to exercise such option or to notify respondents regarding cancellation. For the purposes of this Order, the failure of respondents:

(1) To provide any offer, notice or action required by this Order in writing and by first class mail will create a rebuttable presumption that the respondents failed to offer a clear and conspicuous offer, notice or option;

(2) To provide the buyer with the means in writing (by business reply mail or with postage prepaid by respondents) to exercise any option or to notify respondents regarding a decision to cancel, will create a rebuttable presumption that the respondents did not provide the buyer with adequate means pursuant to this Paragraph 4(C).

Nothing in Paragraph 4 of this part shall prevent respondents where they are unable to make shipment within the time set forth in Paragraph 3(A) or within a delay period consented to by the buyer, from deciding to consider the order cancelled and providing the buyer with notice of said decision within a reasonable time after they become aware of said inability to ship, together with a prompt refund.

5. Failing to deem an order cancelled and to make a prompt refund to the buyer whenever:

(A) Respondents receive, prior to the time of shipment, notification from the buyer cancelling the order pursuant to any option, renewed option or continuing option under this Order;

(B) Respondents have pursuant to Paragraph 4(A)(3): *Provided,* The buyer with a definite revised shipping date which is more than thirty (30) days later than the applicable time set forth in Paragraph 3(A) or have notified the buyer that respondents are unable to make any representation regarding the length of the delay and respondents (1) have not shipped the merchandise within thirty (30) days of the applicable time set forth in Paragraph 3(A), and (2) have not received the buyer's express consent to said shipping delay within said thirty (30) days;

(C) Respondents are unable to ship within the applicable time set forth in Paragraph 4(B) and have not received, within the said applicable time, the buyer's consent to any further delay;

(D) Respondents have notified the buyer of their inability to make shipment and have indicated their decision not to ship the merchandise; or

(E) Respondents fail to offer the option prescribed in Paragraph 4(A) and have not shipped the merchandise within the applicable time set forth in Paragraph 3(A).

For purposes of this part:

(1) "Shipment" shall mean the act by which the merchandise is physically placed in the possession of the carrier.

(2) "Receipt of a properly completed order" shall mean the time at which respondents receive an order from the buyer containing all the information requested by respondents and accompanied, where required, by the proper amount of money in the form of cash, check or money order. *Provided, however,* That where respondents receive notice that the check or money order tendered by the buyer has been dishonored or that the buyer does not qualify for a credit sale, "receipt of a properly completed order" shall mean the time at which (a) respondents receive notice that a check or money order for the proper amount tendered by the buyer has been honored, (b) the buyer tenders cash in the proper amount or (c) the seller receives notice that the buyer qualifies for a credit sale.

(3) "Refund" shall mean:

(a) Where the buyer tendered full payment for the unshipped merchandise in the form of cash, check or money order, a return of the full amount tendered in the form of cash, check, or money order;

(b) Where there is a credit sale:

(i) And the seller is a creditor, a copy of a credit memorandum or the like or an account statement reflecting the removal or absence of any remaining charge incurred as a result of the sale from the buyer's account;

(ii) And a third party is the creditor, a copy of an appropriate credit memorandum or the like to the third party creditor which will remove the charge from the buyer's account or a statement from the seller acknowledging the cancellation of the order and representation that he has not taken any action regarding the order which will result in a charge to the buyer's account with the third party;

(iii) And the buyer tendered partial payment for the unshipped merchandise in the form of cash, check or money order, a return of the amount tendered in the form of cash, check or money order.

(4) "Prompt refund" shall mean:

(a) Where a refund is made pursuant to definition (3)(a) or (3) (b) (iii) a refund sent to the buyer by first class mail within seven (7) working days of the date on which the buyer's right to a refund vests under the provisions of this Order.

(5) The "time of solicitation" of an order shall mean that time when respondents have:

(a) Mailed or otherwise disseminated solicitation to a prospective purchaser;

(b) Made arrangements for an advertisement containing the solicitation to appear in a newspaper, magazine or the like or on radio or television which cannot be changed or cancelled without incurring substantial expense; or

(c) Made arrangements for the printing of a catalog, brochure or the like which cannot be changed without incurring substantial expense, in which the solicitation in question forms an insubstantial part.

6. [Severed from this Order for purposes of finality.]

7. Misrepresenting that the nondelivery of merchandise ordered and paid for by a customer is caused by loss of the merchandise by the United States Postal Service.

8. Misrepresenting, directly or indirectly, the time or manner in which respondents' flame gun, or any other product used for the removal of snow or ice, will perform in the removal of snow or ice.

9. Misrepresenting, directly or indirectly, the time in which or the manner by which respondents' roach powder, or any other pesticide product, will kill or eliminate roaches.

10. Making any representation as to the safety of respondents' roach powder or other pesticide product without failing to clearly and conspicuously include the following statement in all advertisements and other promotional material for said products: "To use this product safely, you must follow the instructions on the label."

11. Misrepresenting, directly or indirectly, that respondents' TV antenna or any TV antenna will bring in sharp and clear reception and is superior to any other antenna.

12. Making any representation as to the life expectancy of flashlights or other battery operated product without failing to disclose, clearly and conspicuously in all advertisements and other promotional material for such products (a) the expected "on" life of the product; and (b) any limitations on the warranty of such product.

13. Representing, directly or indirectly, that the Lincoln-Kennedy penny was minted by the United States Treasury Department.

14. Representing, directly or indirectly, that the Lincoln-Kennedy penny is a coin of historical and numismatic significance which is likely to increase in value.

15. Representing, directly or indirectly, in connection with the sale of any product that another product is given "free" or as gift withour cost or charge in connection with:

a. Any offer which runs for an indefinite term or continuously for a period in excess of one (1) year; or

b. Any offer not covered by (a) above excluding introductory offers, unless as to such limited offer:

(1) A regular bona fide retail price is established for the product without the "free" product;

(2) A regular bona fide retail price is established for the "free" product, or in the absence of such price a determination is made of the cost to respondents of such other product; and

(3) The price of the product is reduced at least as much as the price or cost of the "free" product.

II

It is further ordered, That Jay Norris Corp., and Pan Am Car Distributors Corp., corporations, their successors and assigns, and Joel Jacobs, Mortimer Williams and Kenneth Mann, individually and as officers of said corporations, and respondents' officers, agents; representatives and employees directly or through any corporation, subsidiary, division, trade style, or other device, in connection with the advertising, offering for sale, sale and distribution of used motor vehicles by mail-order in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting, directly or by implication, the ease or profit with which purchasers can resell respondents' motor vehicles;

2. Misrepresenting the mechanical and physical condition of said motor vehicles;

3. Misrepresenting that said motor vehicles are in safe mechanical and operating condition;

4. Misrepresenting the extent to which said motor vehicles have been inspected and repaired in preparation for sale and delivery to customers;

5. Misrepresenting that said motor vehicles are in sound condition and repair and will render normal, adequate and satisfactory service; and

6. Representing the safety or performance of said motor vehicles unless such claims are fully and completely substantiated by a reasonable basis which shall consist of competent and objective material available in written form.

III

It is further ordered, That: 1. Respondents shall maintain records of all consumer complaints for a period of three (3) years after such complaint is received including but not limited to the following information:

a. Name and address of the consumer;

b. Date of receipt of the complaint;

c. Transaction about which complaint is received;

d. Nature of the complaint; and

e. Date and disposition of the complaint.

2. Respondents shall notify the Commission within five (5) days of changes in the corporate respondent such as dissolution, assignment or sales resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other changes in the corporation which may affect compliance obligations arising out of the Order.

3. The individual respondents named herein, shall promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

4. Respondents shall deliver a copy of this Order to cease and desist to all personnel or agents of respondents responsible for the preparation, creation, production or publication of the advertising of all products covered by this Order.

5. No provision of this Order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondents from complying with agreements, orders or directives of any kind obtained by any other agency or act as a defense to actions instituted by municipal or state regulatory agencies. No provision of this Order shall be construed to imply that any past or future conduct of respondents complies with the rules and regulations of, or the statutes administered by the Federal Trade Commission.

6. Respondents herein shall, within sixty (60) days after service of this Order, and annually for five (5) years thereafter, file with the Commission a written report setting forth in detail the manner and form of their compliance with this Order. The expiration of the obligation to file such reports shall not affect any other obligations arising under this Order.

IV

It is further ordered, That the allegations of the complaint are dismissed as to FEDERATED NATIONWIDE WHOLESALERS SERVICE, GARYDEAN CORP., t/a Nationwide Wholesalers Service, and P-N PUBLISHING COMPANY, INC.

Carol M. Thomas,

Secretary.

[FR Doc. 79-31585 Filed 10-11-79; 8:45 am]

BILLING CODE 6750-01-M

---

16 CFR Part 13

[Docket C-2990]

Liquid Air Corp. of North America, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a San Francisco, Calif. producer and seller of industrial gases, to divest as a unit within two years, specified air separation plants and other operations located in the areas of major competitive overlap between the firm and the Chemetron Corporation, a Chicago, Ill. subsidiary of Allegheny Ludlum Industries, Inc. To promote the viability of the divested package and completely eliminate any possible overlap in the Southeast, the company must also divest Chemetron's Knoxville acetylene plant and Chemetron's Chattanooga hydrogen plant. Liquid Air is further required to divest its Texas carbon dioxide operations, and certain Chemetron retail stores, together with the distribution equipment; customer, dealer and distributor contracts; and customer lists associated with these enterprises. Additionally, the order prohibits the three companies from acquiring any air separation production facilities for ten years.

DATES: Complaint and order issued September 5, 1979.[1]

FOR FURTHER INFORMATION CONTACT: FTC/C, Alfred F. Dougherty, Jr., Washington, D.C. 20580. (202) 523-3601.

SUPPLEMENTARY INFORMATION: On Monday, April 9, 1979, there was published in the **Federal Register**, 44 FR 21035, a proposed consent agreement with analysis In the Matter of Liquid Air Corporation of North America, a corporation, Allegheny Ludlum Industries, Inc., a corporation, and Chemetron Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13 are as follows: Subpart-Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5-20 Federal Trade Commission Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18.)

Carol M. Thomas,

Secretary.

[FR Doc. 79-31582 Filed 10-11-79; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and Decision and Order filed with the original document.

---

16 CFR Part 13

[Docket No. 9083]

Prohibited Trade Practices, and Affirmative Corrective Actions; Perpetual Federal Savings & Loan Association

AGENCY: Federal Trade Commission.

ACTION: Order.

SUMMARY: This order withdraws a Commission order issued December 6, 1977, 43 FR 5360, against a Washington, D.C. savings and loan association for having as directors individuals who simultaneously serve as directors of competitive financial institutions. Further, the complaint in this matter has been dismissed.

DATES: Issued September 6, 1979.

FOR FURTHER INFORMATION CONTACT: FTC/C, Alfred F. Dougherty, Jr., Washington, D.C. 20580. (202) 523-3601.

The order withdrawing the December 6 order and dismissing the complaint in the Matter of Perpetual Federal Savings & Loan Association is as follows:

Order

On December 6, 1977 the Commission held that respondent Perpetual Federal Savings & Loan Association ("Perpetual") had violated Section 5 of the Federal Trade Commission Act, 15, U.S.C. 45, by having on its board of directors individuals who served simultaneously as directors of competing commercial banks, 90 F.T.C. 608, 648. Accordingly, the Commission issued a Final Order requiring Perpetual

to cease and desist from having any individual serve as a director while at the same time serving as a director of any corporation engaged in the provision of any financial service in competition with Perpetual, 90 F.T.C. at 665–66. Perpetual filed a petition for review.

On November 14, 1978, this matter was remanded to the Commission by the United States Court of Appeals for the Fourth Circuit for reconsideration in light of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, Pub. L. No. 95–630, 92 Stat. 3641 (Nov. 10, 1978). Title II of that Act, the Depository Institution Management Interlocks Act of 1978, 92 Stat. 3672, codified at 12 U.S.C. 3201 *et seq.*, prohibits a range of interlocks between savings and loan associations and competing banks. Interlocks like those at issue in this proceeding are exempted from the Act's proscriptions for a period of ten years from the Act's enactment.

In the limited rebriefing that followed, both Perpetual and complaint counsel concurred that the December 6, 1977, Final Order should be withdrawn and the complaint dismissed. Complaint counsel construed Section 206 of Title II as impliedly exempting interlocks like Perpetual's from the reach of the Commission for ten years. According to Perpetual, passage of the Act confirmed that Commission jurisdiction over Perpetual's director interlocks was lacking, that its conduct did not violate the Federal Trade Commission Act and that its conduct would not consititute such a violation even when ten years have elapsed after Title II's enactment. Subsequent events have made it unnecessary to address these contentions.

Since the submission of briefs by the parties, a new law has been enacted, Pub. L. 96–37 (July 23, 1979) (to be codified at 15 U.S.C. 45, 46, 57), that amends Section 5 of the Federal Trade Commission Act to exempt savings and loan associations such as Perpetual from the jurisdiction of the Commission. Accordingly,

It is ordered, That the Commission's Final Order of December 6, 1977 be withdrawn and the Complaint dismissed.

Carol M. Thomas,

Secretary.

[FR Doc. 79-31583 Filed 10-11-79; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket Nos. C-2557, C-2558 and D. 8961]

Union Carbide Corp., Hercules Inc., and FMC Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying orders.

SUMMARY: This order reopens proceedings and modifies the 1975 consent orders entered against Union Carbide Corporation (40 FR 6477), Hercules Incorporated (40 FR 3974), and FMC Corporation (40 FR 53551), by deleting provisions requiring companies to include in their advertising a general warning statement apprising users that pesticides can be harmful unless used as directed.

DATES: Modifying orders issued August 13, 1979.*

FOR FURTHER INFORMATION CONTACT: FTC/P, Albert H. Kramer, Washington, D.C. 20580 (202) 523–3727.

SUPPLEMENTARY INFORMATION: In the Matter of Union Carbide Corporation, a corporation, Hercules Incorporated, a corporation, and FMC Corporation, a corporation. Codification under 16 CFR Part 13, appearing at 40 FR 6477, 3974, and 53551, remains unchanged.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

The Order Reopening and Modifying Cease and Desist Orders is as follows:

[Docket Nos. C-2557, C-2558, and 8961]

Union Carbide Corp., Hercules Inc., and FMC Corp.; Order Reopening and Modifying Cease and Desist Orders

In petitions filed during March, April, and May 1978, and supplementary papers filed in June 1978, the Union Carbide Corporation (Union Carbide), Hercules Incorporated (Hercules), and FMC Corporation (FMC) requested the Commission, pursuant to § 3.72(b)(2) of its rules of practice, to reopen the proceedings and modify orders entered in Docket Numbers C–2557, C–2558, and 8961. Respondents seek relief from provisions in those orders which require specified warning statements to be included in subject advertising. The provisions at issue read as follows:[1]

It is further ordered, That respondent * * *, its successors and assigns and respondent's officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale or distribution of such products do forthwith cease and desist from disseminating or causing the dissemination of:

A. Any print advertising or print promotional material which contains any use or efficacy claim or any environmental or safety claim for any such products unless it clearly and conspicuously includes in such print advertising or print promotional material the following statement:

STOP! ALL PESTICIDES CAN BE HARMFUL TO HEALTH AND THE ENVIRONMENT IF MISUSED. READ THE LABEL CAREFULLY AND USE ONLY AS DIRECTED.

B. Any broadcast advertisement more than 30 seconds in length which contains any use or efficacy claim or any environmental or safety claim for any such products unless it clearly and conspicuously includes the following statement:

ALL PESTICIDES CAN BE HARMFUL TO HEALTH AND THE ENVIRONMENT IF MISUSED. READ THE LABEL CAREFULLY AND USE ONLY AS DIRECTED.

C. Any broadcast advertisement of 30 seconds or less in length which contains any use or efficacy claim or any environmental or safety claim for any such products unless it clearly and conspicuously includes the following statement:

ALL PESTICIDES CAN BE HARMFUL. READ THE LABEL. USE AS DIRECTED.

Provided, That in television advertisements not more than 10 seconds in length which contain no direct representations concerning product safety, the requirements of the term "clearly and conspicuously" shall in all cases be met by including the above statement in the video portion of the advertisement.

Provided, however, That for purposes of enforcing Paragraph III of this order any advertisement, statement, claim or representation that such products may be employed for a crop or plant use registered under FIFRA, or any other approved use based upon evidence filed in connection with registration under FIFRA shall not be deemed sufficient to require the disclosure of any statement otherwise required under the provisions of Paragraph III: *Provided further,* That this exception shall be limited to advertisements which promote the respondent's corporate image, which only incidentally promote the sale or distribution of such products and which are published or disseminated for publication by respondent's corporate headquarters' officers in conjunction with respondent's other nonpesticide products.[2]

* Copies of the Order Reopening and Modifying Cease and Desist Orders filed with the original document.

[1] The contested provisions appear as Section IV of the modified Union Carbide order (86 FTC 1231, 1233–34 (1975)), Section III of the modified Hercules order (86 FTC 1236, 1238–39 (1975)), and Section III of the FMC order (86 FTC 897, 903–04 (1975)).

Hercules also seeks deletion of the last full paragraph of Section IV of its order and Union Carbide urges the excision of the reference to Section IV which appears in Section III of its order.

[2] The PROVIDED, HOWEVER paragraph is not included in the Union Carbide order and the last

Footnotes continued on next page

Respondents' petitions would not disturb the prohibitory provisions of the orders.

Section 3.72(b)(2) of the Commission's Rules of Practice, 16 CFR 3.72(b)(2), permits the filing of petitions to reopen proceedings whenever a party subject to a final rule or order "is of the opinion that changed conditions of fact or law require that said rule or order be altered, modified, or set aside, or that the public interest so requires * * *." Petitioners have advanced a number of considerations intended to illustrate such "changed conditions" and to demonstrate the public interest in modification. They allege changed conditions of fact or law in the Commission's failure to promulgate a trade regulation rule concerning pesticide advertising, in the amendment of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), and more comprehensive regulations issued pursuant thereto by the Environmental Protection Agency (EPA), and in recent Commission staff findings about pesticide consumers. As public interest factors for modification, respondents cite the competitive disadvantage (and presumably consequent consumer harm) which they claim compliance forces upon them, the lack of necessity for the warning statement, and the possibility if not likelihood of confusion to the public from inclusion on some pesticide products of dual warnings, one mandated by the FTC and the other by the EPA.

Having considered the petitions and supporting papers and the staff's answer thereto, the Commission has concluded that the petitions should be granted and that the unmodified provisions of the orders will be sufficient to safeguard the public interest, particularly in light of the Commission's 1977 announcement that it would continue to monitor pesticide advertising closely and to deal with law violations on a case-by-case basis. In reaching its conclusion, the Commission has taken into account the 1972 FIFRA amendments and subsequent EPA regulatory activity, the dramatic decline in absolute safety advertising which had provided the impetus for the warning statement requirement, the findings of greatly increased consumer sophistication with regard to the hazards of pesticide products, the decrease in pesticide-related fatalities, and the possibility of the warning's creating a burden upon competition. The Commission's determination does not, however, signify acceptance of petitioners' contentions that the Commission decision not to promulgate a pesticide advertising TRR either constitutes a change in fact or law or represents the failure of any sort of implied condition precedent to these orders. Therefore,

It is ordered, That these matters be reopened for the limited purpose requested and that the following modifications be made:

In Docket No. C-2557, change the words "I, II, and IV" in Section III of the cease and desist order to "I and II," and delete Section IV of the order.

In Docket No. C-2558, delete Section III of the cease and desist order, change the words "I, II, and III" to "I and II" in the first paragraph of Section IV of the order, and delete the second paragraph of Section IV.

In Docket No. 8961, delete Section III of the cease and desist order.

It is further ordered, That the foregoing modifications shall become effective upon service of this order.

By the Commission. Commissioner Pitofsky did not participate.

Carol M. Thomas,

Secretary.

[FR Doc. 79-31584 Filed 10-11-79; 8:45 am]

BILLING CODE 6750-01-M

Footnotes continued from last page part of the PROVIDED FURTHER sentence, beginning with the words "and which are published * * *," does not appear in the Hercules order.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-10890]

Exemption of Certain Joint Transactions With Affiliates Involving Portfolio Company Reorganizations

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting an amendment to a rule under the Investment Company Act of 1940 to permit, provided that certain conditions are satisfied, investment companies and certain affiliated persons to engage in a joint transaction involving the receipt of securities and/or cash pursuant to a portfolio company's plan of reorganization. Absent this amendment, such a transaction would be permissible only pursuant to an exemptive order granted by the Commission upon application on a case-by-case basis.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Mark B. Goldfus, Special Counsel, Investment Company Act Study Group, (202) 272-2048; or Mark J. Mackey, Esquire, (202) 272-3045, Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today adopted an amendment to rule 17d-1 [17 CFR 270.17d-1] under Section 17(d) of the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.] ("Act"), to permit under specified circumstances an investment company and certain affiliated persons thereof to enter a joint arrangement to receive securities and/or cash pursuant to a plan of reorganization without filing an exemptive application. The reasons for the Commission's proposing to amend rule 17d-1 were discussed thoroughly in Investment Company Act Release No. 10699 (May 16, 1979), 44 FR 29911 (May 23, 1979). Persons interested in a more detailed discussion of the amendment should refer to that release.

In response to its request for comments regarding the proposed rule, the Commission received seven letters. The commentators, with one apparent exception, favored the Commission's adopting the rule, although several commentators recommended modifications thereto. Upon considering these letters, the Commission has determined to adopt the amendment as proposed except for a textual clarification.[1]

Final Rulemaking

Rule 17d-1(d)(6) permits the receipt of securities and/or cash by an investment company or a controlled company thereof and an affiliated person of such investment company or an affiliated person of such person pursuant to a plan of reorganization, provided that certain safeguards are satisfied. These safeguards require that no person described in rule 17d-1(d)(5)(i) [17 CFR 270.17d-1(d)(5)(i)] or any company in which such person [2] has a direct or indirect financial interest (as defined in paragraph (d)(5)(iii) of that rule):

[1] The Commission is also rescinding the note following rule 17d-1(d)(5) as obsolete. That note states, generally, the Commission's intention to include an additional item in the annual report form for registered management investment companies requiring information relating to all transactions effected in reliance upon rule 17d-1(d)(5). The Commission recently included such an item as Item No. 13 of Form N-1R Annual Report of Management Investment Company. See Investment Company Act Release No. 10378 (Aug. 28, 1978), 43 FR 39547 (Sept. 5, 1978).

[2] Such persons are persons who, by virtue of their relationship with the investment company, potentially may have the ability to influence the terms of the investment company's participation in a transaction.

(i) Has a direct or indirect financial interest in the corporation under reorganization, except owning securities of each [3] class or classes owned by such investment company or controlled company;

(ii) Receives pursuant to such plan any securities or other property, except securities of the same class and subject to the same terms as the securities received by such investment company or controlled company, and/or cash in the same proportion as is received by the investment company or controlled company based on securities of the company under reorganization owned by such persons; and

(iii) Is, or has a direct or indirect financial interest in any person other than such investment company or controlled company) who is, (A) purchasing assets from the company under reorganization or (B) exchanging shares with such person in a transaction not in compliance with the standards described in rule 17d–1(d)(6).

Authority, Effective Date

The Commission, pursuant to section 6(c) [15 U.S.C 80a–6(c)], section 17(d), and section 38(a) [15 U.S.C. 80a–37(a)] of the Act, hereby amends 17 CFR Part 270 by deleting the note after paragraph (d)(5) and by adding paragraph (d)(6) to § 270.17d–1 as follows. Because the rule is exemptive, it is effective immediately.

Text of Amended Rule

§ 270.17d–1 Applications regarding joint enterprises or arrangements and certain profit-sharing plans.

* * * * *

(d) * * *

(6) The receipt of securities and/or cash by an investment company or a controlled company thereof and an affiliated person of such investment company or an affiliated person of such person pursuant to a plan of reorganization: *Provided,* That no person described in paragraph (d)(5)(i) of this section or any company in which such person has a direct or indirect financial interest (as defined in paragraph (d)(5)(iii) of this section): (i) has a direct or indirect financial interest in the corporation under reorganization, except owning securities of each class or classes owned by such investment company or controlled company;

(ii) Receives pursuant to such plan any securities or other property, except securities of the same class and subject to the same terms as the securities received by such investment company or controlled company, and/or cash in the same proportion as is received by the investment company or controlled company based on securities of the company under reorganization owned by such persons; and

(iii) Is, or has a direct or indirect financial interest in any person (other than such investment company or controlled company) who is, (A) purchasing assets from the company under reorganization or (B) exchanging shares with such person in a transaction not in compliance with the standards described in this paragraph (d)(6).

By the Commission.

George A. Fitzsimmons,

Secretary.

October 4, 1979.

[FR Doc. 79–31644 Filed 10–11–79; 8:45 am]

BILLING CODE 8010–01–M

[3] As a textual clarification, the word "each" has been substituted for the word "the" which was used in the proposed rule. The Commission believes this substitution cures a possible ambiguity in the proposed rule and does not cause any substantive modification of the scope of the rule as proposed.

DEPARTMENT OF JUSTICE

Attorney General

28 CFR Part 0

[Order No. 858–79]

Amendment of Order No. 790–78 To Revise the Functions of Associate Attorney General

AGENCY: Department of Justice.

ACTION: Final Rule.

SUMMARY: This order deletes from the list of functions of the Associate Attorney General the duty of preparing, for consideration of the Attorney General, recommendations for Presidential appointments to judicial positions and positions within the Department, including United States Attorneys and United States Marshals.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: John M. Harmon, Assistant Attorney General, Office of Legal Counsel, Department of Justice, Washington, D.C. 20530 (202–633–2041).

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, 28 CFR § 0.19 is amended as follows:

1. Section 0.19(a)(1) of Subpart C–1, Part 0, Chapter I, Title 28, Code of Federal Regulations, is revoked and the subsequent subdivisions of section 0.19(a) are renumbered as follows:

§ 0.19 Associate Attorney General

(a) The Associate Attorney General shall advise and assist the Attorney General in formulating and implementing Departmental policies and programs, shall provide overall supervision and direction of certain organizational units of the Department, as provided in this chapter, and shall:

(1) Except as assigned to the Deputy Attorney General by § 0.15(b)(3), exercise the power and authority vested in the Attorney General to take final action in matters pertaining to the employment, separation, and general administration of personnel in General Schedule grades GS–16 through GS–18, or the equivalent, and of attorneys regardless of grade or pay in the Department.

(2) Admininster the Attorney General's recruitment program for Honor Law Graduates and judicial law clerks.

(3) Coordinate Departmental liaison with the White House Staff and the Executive Office of the President.

(4) Perform such other duties as may be especially assigned from time to time by the Attorney General.

2. Section 0.19(b) of Subpart C–1, Part 0, Chapter I, Title 28, Code of Federal Regulations, is revised to read as follows:

(b) The Associate Attorney General may redelegate the authority provided in paragraph (a)(1) of this section to take final action in matters pertaining to the employment, separation and general administration of attorneys in grade GS–15 and below to a Deputy Associate Attorney General.

Date: October 4, 1979.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 79–31601 Filed 10–11–79; 8:45 am]

BILLING CODE 4410–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Interim Regulation on Valuation of Plan Benefits; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Amendment to the Interim Regulation.

SUMMARY: This amendment to the interim regulation on Valuation of Plan Benefits prescribes the interest rates and factors the Pension Benefit Guaranty Corporation (the "PBGC") will use to value benefits provided under terminating pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974 (the "Act"). This valuation is necessary because under section 4041 of the Act, the PBGC

must determine whether a terminating pension plan has sufficient assets to pay all guaranteed benefits provided under the plan. If the assets are insufficient, the PBGC will pay the unfunded guaranteed benefits under the plan termination insurance program established under Title IV.

The interest rates and factors set forth in the regulation must be adjusted periodically to reflect changes in investment markets. This amendment adopts the rates and factors applicable to plans that terminated on or after June 1, 1979, but before September 1, 1979, and will enable the PBGC to value the benefits provided under those plans.

EFFECTIVE DATE: October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Nina R. Hawes, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202–254–4895.

SUPPLEMENTARY INFORMATION: On November 3, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") issued an interim regulation establishing the methods for valuing plan benefits of terminating plans covered under Title IV of the Employee Retirement Income Security Act of 1974 (the "Act") (41 FR 48484 *et seq.*). Specifically, the regulation contains a number of formulas for valuing different types of benefits. In addition, Appendix B of the regulation sets forth the various interest rates and factors that are to be used in the formulas. Because these rates and factors must be reflective of investment experience, it is necessary to update the rates and factors periodically. When first published, Appendix B contained interest rates and factors to be used to value benefits in plans that terminated on or after September 2, 1974, but before October 1, 1975. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after October 1, 1975, but before June 1, 1979. (29 CFR 2610 (1978), 43 FR 55240 *et seq.*, 44 FR 3971 *et seq.*, 44 FR 22453 *et seq.*, 44 FR 42180). The purpose of this amendment is to provide the rates and factors applicable to plans that terminated on or after June 1, 1979, but before September 1, 1979. The rates and factors set forth in this amendment are the same as those in effect for the previous quarter, March 1, 1979 to May 31, 1979.

On April 16, 1979, after public notice and comment, the PBGC adopted a new procedure of issuing new interest rates and factors in final form without first publishing them in a Notice of Proposed Rulemaking (44 FR 22453 *et seq.*). Because the PBGC cannot value the benefits provided under pension plans that terminated on or after June 1, 1979 and before September 1, 1979 until the new interest rates and factors contained herein are promulgated, and consistent with this new procedure, the PBGC finds that notice of and public comment on this amendment are impracticable and unnecessary. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that terminated on or after June 1, 1979, but before September 1, 1979, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making this amendment to the interim regulation effective immediately.

The PBGC has determined that this amendment to the Valuation of Benefits regulation is not "significant" under the criteria prescribed by Executive Order 12044, "Improving Government Regulations," 43 FR 12661 (March 24, 1978), and the PBGC's Statement of Policy and Procedures implementing the Order, 43 FR 58237 (December 13, 1978). The reasons for this determination are that this amendment is not likely to engender substantial public interest or controversy, does not affect another Federal agency, and will not have a major economic impact.

In consideration of the foregoing, Part 2610 of Chapter XXVI, Code of Federal Regulations, is hereby amended by adding a new Table XV to Appendix B to read as follows:

Appendix B—Interest Rates and Quantities Used to Value Benefits

* * * * *

XV. *The following interest rates and quantities used to value benefits shall be effective for plans that terminate on or after June 1, 1979, but before September 1, 1979.*

I. *Interest rate for valuing immediate annuities.*

An interest rate of 7½ percent shall be used to value immediate annuities, to compute the quantity "G_y" in § 2610.6 and for valuing both portions of a cash refund annuity.

II. *Interest rate for valuing death benefits.*

An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

III. *Interest rates and quantities used for valuing deferred annuities.*

The following factors shall be used to value deferred annuities pursuant to § 2610.6:

(1) $k_1 = 1.0675$
(2) $k_2 = 1.055$
(3) $k_3 = 1.04$
(4) $n_1 = 7$
(5) $n_2 = 8$

(Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025–27, 1029 (29 U.S.C. 1302(b)(3), 1341(b), 1344, 1362(b)(1)(A)).)

Issued at Washington, D.C., on this 9th day of October, 1979.

Ray Marshall,
Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing its Chairman to issue same.

Henry Rose,
Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 79-31648 Filed 10-11-79; 8:45 am]

BILLING CODE 7708-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 117

[FRL 1336-4]

Water Programs; Determination of Reportable Quantities for Hazardous Substances; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction Notice.

SUMMARY: On August 29, 1979, the Environmental Protection Agency published at 44 FR 50766, the final rulemaking establishing reportable quantities of hazardous substances. Since that time several interested persons have contacted the Agency regarding action required for a discharge to be excluded under the provisions of §117.12(d)(1). Concern has been expressed that the exclusion applies only if a permit application had been filed, since it does not explicitly state that it applies to point sources for which a permit currently exists. As noted in the preamble to the regulation (44 FR 50769), the Agency intends the exclusion to apply to existing permits. The regulation is modified to make this intent clear.

EFFECTIVE DATES: These regulations became effective September 28, 1979, except for discharges of hazardous substances which have been offered to common carriers who are required to accept such substances for shipment in compliance with applicable tariffs. EPA will publish notice in the **Federal Register** announcing the effective date of these regulations to such discharges.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Mackenthun, Director,

Criteria and Standards Division (WH-585), Office of Water Planning and Standards, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-0100.

Dated: October 3, 1979.

Swep T. Davis,

Acting Assistant Administrator for Water and Waste Management.

§ 117.12 [Amended]

40 CFR Part 117 is corrected by deleting § 117.12(d)(1) and substituting: § 117.12(d)(1)

* * * * *

(d) * * *

(1) The hazardous substance is discharged from a point source for which a valid permit exists or for which a permit application has been submitted; and

* * * * *

[FR Doc. 79-31569 Filed 10-11-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 257

[FRL 1336-3]

Criteria for Classification of Solid Waste Disposal Facilities and Practices; Correction

AGENCY: U.S. Environmental Protection Agency.

ACTION: Correction to final rule.

SUMMARY: On September 13, 1979 EPA issued final and interim-final rules (44 FR 53438) under Sections 1008(a)(3) and 4004(a) of the Resource Conservation and Recovery Act and Section 405(d) of the Clean Water Act. The following corrections should be made to those rules.

FOR FURTHER INFORMATION CONTACT: Mr. Truett V. DeGeare, Jr., P.E., Office of Solid Waste (WH-564), U.S.E.P.A., Washington, D.C., 20460; telephone 202-755-9120.

Corrections

In FR Doc. 79-28532 make the following changes:

Page	Column	Correction
53438	1	Under the "Authority" section, the United States Code citation for Section 405(d) of the Clean Water Act should be changed to "33 U.S.C. 1345".
53461	2	In the definition of "solid waste", the phrase "domestic sewage, or solid or dissolved materials in" should be inserted between "does not include solid or dissolved materials in" and "irrigation return flows".

Dated: October 4, 1979.

Steffen W. Plehn,

Deputy Assistant Administrator for Solid Waste.

[FR Doc. 79-31572 Filed 10-11-79; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-29

[FPMR Amdt. E-234]

Federal Specifications and Standards and Federal Telecommunication Standards

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation amends the Federal Property Management Regulations (FPMR) to add a new section that deals exclusively with exceptions to the mandatory use of Federal telecommunication standards. Several provisions presently in the FPMR which allow agencies to deviate from Federal standards are not appropriate when applied to telecommunication systems because they undermine standards which emanate from the Federal telecommunication standards program. This regulation will ensure that there will be no deviation from telecommunication standards developed to benefit the Government unless the deviation is authorized by the General Services Administration.

EFFECTIVE DATE: October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Agin (202-566-1867) Acquisition Management and Review Directorate.

SUPPLEMENTARY INFORMATION: This regulation appeared in the **Federal Register** on November 13, 1978, as a notice of proposed rule. The only comments received in response to the notice were from the Department of Defense and those comments have been accepted or reconciled.

Note.—The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

1. The table of contents for Part 101-29 is amended to include the following entry:

Sec. 101-29.303 Exceptions to mandatory use of Federal telecommunication standards.

Subpart 101-29.3—Standards

2. Section 101-29.302 is revised as follows:

§ 101-29.302 Mandatory use of Federal standards.

Federal standards shall be used by all Federal agencies. The exceptions to § 101-29.204 relating to the mandatory use of Federal specifications are applicable to Federal standards other than telecommunication standards. Exceptions applicable to Federal telecommunication standards are provided in § 101-29.303. A Federal agency may be granted an exception to the use of Federal standards (other than Federal telecommunication standards) by GSA only upon submission of adequate justification to the General Services Administration (F), Washington, DC 20406.

3. Section 101-29.303 is added as follows:

§ 101-29.303 Exceptions to mandatory use of Federal telecommunication standards.

(a) Exceptions to the mandatory use of Federal telecommunication standards required by Subpart 101-36.13 may be granted by GSA only upon submission of adequate justification to the General Services Administration (C), Washington, DC 20405. Circumstances under which exceptions may be granted include, but are not limited to, the following:

(1) The items to be purchased are replacements or augmentation components of an existing system or equipment, the operational integrity or utility of which would be decreased by introduction of components meeting Federal telecommunication standards; or

(2) The purchase is required under a public exigency, and delay in obtaining agency requirements would be involved in using the applicable standards.

(b) When purchases are made under any of the following conditions, agencies may procure nonstandard equipment without prior approval of, but with notification to, the General Services Administration:

(1) The items are to be purchased in foreign markets for use by overseas activities of agencies;

(2) The items to be purchased are required for experimental or test and evaluation purposes; or

(3) Where otherwise authorized by law or treaty.

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

Dated: September 21, 1979.

R. G. Freeman III,

Administrator.

[FR Doc. 79-30465 Filed 10-11-79; 8:45 am]

BILLING CODE 6820-82-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Part 71

Foreign Quarantine; Disinsection of Aircraft

AGENCY: Center for Disease Control, PHS, HEW.

ACTION: Final Rule.

SUMMARY: The final rule provides that the Director, Center for Disease Control, may require disinsection of an aircraft if it arrives from an area that is infected with insect-borne communicable diseases and is suspected of harboring insects of public health importance. The procedures for disinsection of aircraft are revised to require that aircraft be disinsected immediately after landing and blocking. The cargo compartment will be disinsected before the discharge of mail, baggage, and other cargo. The rest of the aircraft will be disinsected after passengers and crew deplane. The pilot in command will be held responsible for the disinsection of the entire aircraft. Determinations as to the insecticidal formulations which may be used are based upon recommendations made by the World Health Organization. The formulations must comply with the U.S. Environmental Protection Agency's registration and labeling requirements.

EFFECTIVE DATE: December 11, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph F. Giordano, Director, Quarantine Division, Bureau of Epidemiology, Center for Disease Control, PHS, HEW, Atlanta, Georgia 30333, Phone: (404) 329-3674 or FTS: 236-3674.

SUPPLEMENTARY INFORMATION: On March 28, 1979, a Notice of Proposed Rulemaking (NPRM) was published in the **FEDERAL REGISTER** (44 FR 18536) to amend § 71.102 of Subpart G entitled "Sanitary Inspection: Control of Rodents, Insects, and Other Vermin; Disinfection." It proposed revised procedures and new criteria for the disinsection of aircraft. It also proposed revisions of the list of insecticides to be used.

The revised regulation provides that the Director, Center for Disease Control, may require disinsection of an aircraft only if (1) it arrives from an area that is infected with insect-borne communicable diseases, and (2) it is suspected of harboring insects of public health importance. Thus, under the revised regulation, disinsection might be required of an aircraft which leaves a foreign area that is infected with an insect-borne communicable disease and arrives at an airport in the southern part of the United States where an insect vector (for example, *Aedes aegypti* mosquito) exists. On the other hand, if the plane arrives at an airport in the northern part of the United States in the winter, disinsection might not be required because the insect is not likely to be present or to survive in that climate.

The procedures for disinsecting aircraft are revised to require that aircraft be disinsected immediately after landing and blocking—under existing regulations, aircraft personnel must disinsect the aircraft prior to takeoff or in flight, but not later than 30 minutes before landing. The cargo compartment will be disinsected before the discharge of mail, baggage, and other cargo. The rest of the aircraft will be disinsected after passengers and crew deplane. The pilot in command will be held responsible for the disinsection of the entire aircraft. As noted above, insecticidal formulations used must be recommended by the World Health Organization and must conform with the U.S. Environmental Protection Agency's registration and labeling requirements.

Comments

A period of 30 days was given for the public to comment on the proposed revision. Comments, questions, and suggestions were received from several interested parties. The comments have been carefully reviewed and are discussed below.

One comment endorsed the proposed revision and urged that it be adopted as soon as possible. It stated that implementation of the rule should eliminate passenger complaints which arise from spraying the aircraft when passengers are still aboard.

Another comment suggested that cargo compartments of aircraft be disinsected while the aircraft is on the ground before take-off from the last airport before arrival in the United States (as is permitted under the current regulation) or after landing in the United States before discharging cargo. Since we cannot supervise the disinsection of the aircraft at the foreign airport, this suggestion was not accepted.

Another comment related to the delay in the discharge of baggage because of the disinsection of the cargo compartment after the aircraft lands. Since disinsecting of the cargo compartment will be required infrequently, the slight delay will not be a routine occurrence. In any event, the public health considerations would appear to justify the delay.

Another comment related to the limited applicability of the proposed revision to commercial aircraft, and the suggestion was made that private aircraft be included. The final rule includes all commercial and private aircraft and places the responsibility for disinsection on the pilot in command.

Exceptions were received from two parties to the following statement which was published in the NPRM: "The insecticidal formulations containing pyrethrin (which is extracted from a plant) currently used to disinsect aircraft cause undue discomfort to many passengers and, in some cases, place those exposed at risk of developing acute allergic (anaphylactic) reaction." The exceptions were based upon an article published in 1965 which the parties believe refutes statements on the risk of allergic reactions from the pyrethrin aerosols. However, the later literature documents the occurrence of anaphylaxis and other severe allergies in persons exposed to pyrethrins, and we believe that the body of evidence in the published literature indicates that commercial pyrethrins are potent allergens.

Another comment pointed out that Insecticide Aerosol G-1707 is no longer being manufactured because of the unavailability of one of the ingredients, Tropital Synergist. Therefore, it has been deleted from the list of insecticide formulations published in the NPRM. It was also suggested that the aerosol insecticide formulation OI 507C, which was approved May 3, 1974, on a temporary basis, continue to be used for the disinsection of aircraft. However, this formula has not been recommended by the World Health Organization. Therefore, we are not authorizing its use. It was noted in the comment that the Environmental Protection Agency has registered an insecticide aerosol d-Phenothrin—2% formulation containing 1.92% d-Phenothrin and 0.08% other isomers. This additional formulation is included in the regulation. Other minor changes were made in the regulation for clarity.

Section 71.102 of Part 71, Title 42, Code of Federal Regulations, is amended as set forth below.

Dated: August 20, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: October 5, 1979.

Patricia Roberts Harris,

Secretary.

Section 71.102 is revised to read as follows:

§ 71.102 Disinsection of aircraft.

(a) The Director, Center for Disease Control, may require disinsection of an aircraft if it has left a foreign area that is infected with insect-borne communicable disease and is suspected of harboring insects of public health importance.

(b) Disinsection shall be the responsibility of the pilot in command, and subject to monitoring by the Public Health Service Officer in charge.

(c) Disinsection of the entire aircraft shall be accomplished immediately after landing and blocking.

(d) The cargo compartment shall be disinsected before the mail, baggage, and other cargo are discharged.

(e) The rest of the aircraft shall be disinsected after passengers and crew deplane.

(f) The insecticides used shall be either (1) Insecticide Aerosol Resmethrin—2% or (2) Insecticide Aerosol d-Phenothrin—2%. The formulas for these insecticides are set forth below. Personnel shall disinsect aircraft in accordance with the instructions contained in the labeling accompanying the particular insecticide.

Formula for Insecticide Aerosol; Resmethrin—2%

Component	By weight (percent)
Active Ingredients:	
*(5-Benzyl-3-furyl) methyl 2, 2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate	2.00
Inert Ingredients	98.00
	100.00

*Cis/trans ratio: max. 11% (±) cis. and min. 89% (±) trans.

Formula for Insecticide Aerosol; d-Phenothrin—2%

Component	By weight (percent)	By weight (percent)
Active Ingredient:		
3-phenoxybenzyl d-cis and trans* 2, 2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate	2.00	1.92
Other Isomers		0.08
Inert Ingredients	98.00	98.00
	100.00	100.00

*Cis/trans isomer ratio: max. 25% (±) cis and min. 75% (±) trans.

[FR Doc. 79-31646 Filed 10-11-79; 8:45 am]

BILLING CODE 4110-86-M

Office of the Secretary

45 CFR Parts 20, 55, 61, 82

Removal of Miscellaneous Parts

AGENCY: Office of the Secretary, HEW.

ACTION: Removal of Miscellaneous Parts from the CFR.

SUMMARY: This notice removes from the *Code of Federal Regulations* (CFR) regulations that we are revoking because they are obsolete.

EFFECTIVE DATE: October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Susan Steward, Office of the General Counsel, HEW, Room 716-E, 200 Independence Avenue, SW., Washington, D.C. 20201; 202-245-7545.

SUPPLEMENTARY INFORMATION: As part of Operation Common Sense, we are reviewing and, where necessary, revising all of the Department's existing regulations (as well as developing new regulations in a timely manner and writing them in "plain English"). In reviewing regulations for the Office of the Secretary in Parts 1–99 of Title 45 of the CFR, we determined that several parts were obsolete. The purpose of this document is to remove these regulations from the CFR. Since these parts are unnecessary, there is no reason to seek comment on a proposed revocation or to delay the effective date of the revocations.

We are revoking the following parts:

Part 20—Vending stands for the blind on Federal property in the custody of the Department of Health, Education, and Welfare. This part is obsolete. We published revised regulations in March, 1977 which are now located at 45 CFR Part 1369. Part 20 was inadvertently not revoked at that time.

Part 55—Interchange of personnel with States. The Civil Service Reform Act eliminated the authority under the Public Health Service Act to exchange officers of the Commissioned Corps of the Public Health Service and other employees with employees of the States. This part is obsolete.

Part 61—Contracts and grants for planning and evaluation of Office of Education programs. The Office of the Secretary no longer makes contracts or grants for planning or evaluation under this Part, but uses Part 63. Regulations for Office of Education programs are at 45 CFR Parts 100–199.

Part 82—Procedural rules for proceedings conducted pursuant to enforcement of Executive Order 11246, and rules, regulations, and orders thereunder. The Department of Labor now has responsibility for enforcing E.O. 11246 so this part is no longer necessary.

Previous Removals

We previously revoked the following parts from the CFR (since the beginning of Operation Common Sense):

Part 13 Allocation and utilization of surplus real property

Part 14 Minimum standards of operation for State agencies for surplus property

Part 25 Hearing examiners—Supplemental Security Income

Part 70 Standards for a merit system of personnel administration

Dated: July 31, 1979.

Richard I. Beattie,

General Counsel.

Approved: October 5, 1979.

Patricia Roberts Harris,

Secretary, Department of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended as follows:

PART 20—VENDING STANDS FOR THE BLIND ON FEDERAL PROPERTY IN THE CUSTODY OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE [REVOKED]

1. Part 20 is revoked.

PART 55—INTERCHANGE OF PERSONNEL FROM STATES [REVOKED]

2. Part 55 is revoked.

PART 61—CONTRACTS AND GRANTS FOR PLANNING AND EVALUATION OF OFFICE OF EDUCATION PROGRAMS [REVOKED]

3. Part 61 is revoked.

PART 82—PROCEDURAL RULES FOR PROCEEDINGS CONDUCTED PURSUANT TO ENFORCEMENT OF EXECUTIVE ORDER 11246, AND RULES, REGULATIONS, AND ORDERS THEREUNDER [REVOKED]

4. Part 82 is revoked.

[FR Doc. 79-31645 Filed 10-11-79; 8:45 am]

BILLING CODE 4110-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC Docket No. 21392; RM 2816; MR 2991]

Frequency Allocation: TV (73.606) Florence, Ky.

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order.

SUMMARY: This action deletes a television channel assignment from Florence, Kentucky, in view of the withdrawal of interest in applying for a station thereby the original proponent. In addition, a request to assign a fourth television assignment to Lexington, Kentucky, is to be considered as a separate petition for rule making.

EFFECTIVE DATE: November 16, 1979.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the Matter of amendment of Section 73.606(b), Table of Assignments, Television Broadcast Stations; (Lexington and Florence, Kentucky, and Portsmouth, Ohio). [Docket No. 21392, RM-2816, RM-2991]

Memorandum Opinion and Order

Adopted: September 28, 1979;

Released: October 4, 1979.

By the Chief, Broadcast Bureau:

1. Before the Commission are two petitions for reconsideration of the *Report and Order*, 44 Fed. Reg. 25235, released April 26, 1979, which reassigned UHF television Channel 36 from Portsmouth, Ohio, to Lexington, Kentucky; deleted UHF television Channel 62 from Lexington, Kentucky; and assigned UHF television Channel 58 to Florence, Kentucky. One petition, filed by Cincinnati Christian Communications, Inc. ("CCC"), requests reconsideration of the Florence, Kentucky assignment. The other petition, filed by Frederic Gregg, Jr., is concerned only with the removal of Channel 62 from Lexington, Kentucky. Comments have been received from Starr WTVQ, Inc. ("Starr"), licensee of Station WTVQ-TV (Channel 62), Lexington, Kentucky, and Maranatha Broadcasting Corp., proponent for the Florence assignment. Reply comments were received from CCC, Frederic Gregg, Jr., and Starr.

2. In response to a request from Starr, the *Report and Order* substituted Channel 36 for 62 at Lexington, Kentucky, and modified the license of Starr's station, WTVQ-TV, to specify the new channel. In doing so, a counterproposal, which requested the assignment of Channel 36 to Florence, was denied. Instead, Channel 58 was allocated at Florence with a condition that CCC, the applicant for Channel 43 at Richmond, Indiana, must amend its application to specify a new transmitter site to avoid a short-spacing to the Florence Channel 58 assignment. In its petition for reconsideration[1], CCC contends that the Commission did not take into account the fact that its pending application met all then existing spacing requirements when it assigned a conflicting channel to a community which the Commission admitted in its *Report and Order* showed only a marginal need for a local television station. It argues that under Commission precedent assignments are generally made so as to avoid a conflict with an applicant's choice of transmitter site. CCC also alleges that its proposed site, approximately 50 kilometers (25 miles) south-southeast of Richmond, does not result in a *de facto* reallocation of the channel to Cincinnati even though the latter city would receive a city grade signal. In this regard, CCC insists that its station's programming will be directed to the needs of Richmond. Finally, in the event that the Commission determines that Florence deserves a television channel, two other possible assignments requiring changes elsewhere are suggested.

3. Mr. Gregg, who also did not participate in this proceeding at the earlier stages, requests that Channel 62 be reassigned to Lexington, Kentucky, as a fourth television assignment there. He provides no supporting data for the additional assignment and does not indicate why he failed to suggest the assignment earlier.

4. In their comments, neither CCC nor Starr object to the Channel 62 assignment to Lexington, as long as their respective channels (Channel 43 at Richmond and Channel 36 at Lexington) are unaffected.

5. In its comments, Maranatha, the proponent for Channel 58 at Florence, states that it is no longer interested in applying for that channel. It informs the Commission that its plans have changed drastically since it requested the Florence assignment. Instead of pursuing a Florence station, Maranatha indicates that its efforts have merged with CCC in operating the proposed Richmond station and it now urges, along with CCC, that the Commission rescind the Florence Channel 58 assignment.

6. CCC and Maranatha are correct that it is Commission policy to refuse to assign a channel to a community where there is no party expressing an interest in the proposed assignment. Furthermore, in this situation where the community is considered small (pop. 11,301) for a television assignment, the Commission would assume that it is unlikely that another interest would appear. Certainly no other party has indicated an interest in operating a Florence channel during this proceeding. Moreover, the *Report and Order* mentioned that the showing of need for a television station at Florence was marginal. Under these circumstances, we shall delete the assignment of Channel 58 at Florence. In doing so, the objections of CCC to the assignment, as well as the question of its standing, become moot.

7. As for Mr. Gregg's request to reassign Channel 62 to Lexington as a fourth television channel assignment, we have issued a Public Notice (Report No. 1192), September 19, 1979, (RM-3491) on this request and are now accepting comments to the proposal. We have treated it as a new petition because the public has not yet had an opportunity to provide comments on the need for a fourth television assignment to Lexington.

8. Accordingly, IT IS ORDERED, pursuant to authority contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, that effective November 16, 1979, the Television Table of Assignments (Section 73.606(b) of the Rules) IS AMENDED as follows for the listed city:

City	Channel No.
Florence, Kentucky	

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1068, 1066, 1082; 47 U.S.C. 154, 155, 303.)

Federal Communications Commission

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-31599 Filed 10-11-79; 8:45 am]

BILLING CODE 6712-01-M

[1] CCC argues that it has standing to contest the Channel 58 assignment to Florence despite its failure to object to the proposal at an earlier stage because its "interests are adversely affected." See Section 405 of the Communications Act of 1934, as amended. As will be seen, it is not necessary to deal with CCC's standing to contest the assignment.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1400]

The Denver and Rio Grande Western Railroad Co. Authorized To Operate Over Tracks of the Atchison, Topeka and Santa Fe Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1400.

SUMMARY: Service Order No. 1400 authorizes The Denver and Rio Grande Western Railroad Company to operate over the tracks of The Atchison, Topeka and Santa Fe Railway Company near Fountain, Colorado, in order to serve the R. D. Nixon powerplant with unit coal trains.

EFFECTIVE: 11:59 p.m., October 5, 1979, and continuing in effect until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275-7840.

Decided October 5, 1979.

The Atchison, Topeka and Santa Fe Railway Company (ATSF) and The Denver and Rio Grande Western Railroad Company (DRGW) operate under a Double Track Agreement between Bragdon, Colorado, and South Denver, Colorado. ATSF and DRGW operate their respective single-track railroad lines between Bragdon and South Denver as a double-track railroad for the traffic of both parties. Each railroad has authority under the

agreement to operate on both lines, but each railroad has exclusive right to serve industries connected with its own tracks.

The Department of Public Utilities, City of Colorado Springs, constructed the Nixon Power Plant adjacent to the ATSF-owned segment of the southbound main line near Fountain, Colorado. ATSF has the exclusive right to serve the Nixon Plant under the Double Track Agreement.

The Nixon Plant will begin receiving unit-coal trains from origins on the DRGW. The ATSF and DRGW have executed an agreement which permits the DRGW to serve the Nixon Plant. These railroads will file an application with the Commission for approval of this supplemental agreement.

These new trackage rights authorizing DRGW to serve the Nixon Plant from the ATSF main line will provide for more efficient operations, improve car utilization and improve transit time of the unit-coal trains.

It is the opinion of the Commission that an emergency exists requiring operation of DRGW trains over these tracks of ATSF in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered.

§ 1033.1400 The Denver and Rio Grande Western Railroad Company authorized to operate over tracks of the Atchison, Topeka and Santa Fe Railway Company.

(a) The Denver and Rio Grande Western Railroad Company (DRGW) is authorized to operate over tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) for a distance of approximately 164 feet between ATSF milepost 647+3158.7 near Fountain, Colorado, and the private track of the R. D. Nixon Power Plant, in order to serve this plant.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Nothing herein shall be considered as a prejudgment of the application of DRGW seeking authority to operate over these tracks.

(d) *Effective date.* This order shall become effective at 11:59 p.m., October 5, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1980, unless modified, changed or suspended by order of this Commission.

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

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

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-31499 Filed 10-11-79; 8:45 am]

BILLING CODE 7035-01-M

---

49 CFR Part 1033

[Service Order No. 1396-A]

Railroads Authorized To Divert Traffic Consigned to Jackson County Terminal Elevator Located at Pascagoula, Miss.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1396–A.

SUMMARY: Service Order No. 1396–A vacates Service Order No. 1396. Service Order No. 1396 authorized railroads to divert, reroute, or reship carloads of grain consigned to Jackson County Terminal Elevator at Pascagoula which could not be unloaded at this elevator because of damage from Hurricane Frederic. Repairs have been made to the elevator, and it is not necessary to divert the grain now.

EFFECTIVE: 11:59 p.m., October 3, 1979.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275–7840.

Decided October 2, 1979.

Upon further consideration of Service Order No. 1396 (44 FR 55013), and good cause appearing therefor:

It is ordered:

§ 1033.1396 Railroad authorized to divert traffic consigned to Jackson County terminal elevator located at Pascagoula, Miss.

Service Order No. 1396 is vacated effective 11:59 p.m., October 3, 1979.

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

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

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-31500 Filed 10-11-79; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 44, No. 199
Friday, October 12, 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

Food and Nutrition Service

7 CFR Part 273

Request for Comments on the Possibility of Changing the Food Stamp Program's Verification Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice of Intent to Propose Rulemaking.

SUMMARY: The Department is considering amending § 273.2 of the Food Stamp Program Regulations to change the requirements for verifying information in determining households' eligibility for food stamp benefits. These requirements were contained in the Food Stamp Program Regulations published in the October 17, 1978 **Federal Register** (43 FR 47846) and were implemented nationwide in March 1979.

The Department is issuing this Notice of Intent to Propose Rulemaking to invite public participation in the amendment process. Interested individuals and groups are invited to submit any comments, views, or arguments they may have as to whether or not the verification rules should be changed and, if so, what changes should be made. Following the close of the 30 day comment period, the Department will analyze the comments submitted and, intends to formulate a proposed rule amending § 273.2 and other pertinent provisions. This proposed rule will then be subject to public comment and a final rule will be issued.

DATE: Comments must be received on or before November 13, 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, United States Department of Agriculture, Washington, D.C. 20250. A proposed rulemaking will be issued after considering the comments. All written comments will be open to public inspection at the Office of the Food and Nutrition Service, USDA, during regular business hours (8:30 a.m. to 5:00 p.m. Monday through Friday) at 500 12th Street SW, Room 678, Washington D.C.

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

SUPPLEMENTARY INFORMATION: Section 11 (e)(3) of the Food Stamp Act of 1977 requires State agencies to verify nonexempt gross income along with "such other eligibility factors as the Secretary determines to be necessary." Final regulations published on October 17, 1978 establish three categories of verifications; those that are mandatory for all households, those that are mandatory at the State's option, and those that are conducted when the information is questionable. When a household applies for food stamps, State agencies are required to verify all gross nonexempt income (both earned and unearned), declared alien status, and utility expenses in excess of a utility standard. State agencies determine their own verification policies regarding liquid resources and loans provided that, at a minimum, these items are verified if questionable. States are allowed to verify these items in all cases. Other factors of eligibility are verified prior to certification if they are questionable and affect a household's eligibility or benefit level.

They include household composition, citizenship, tax dependency, and deductible expenses. Information on the application is considered questionable if it is inconsistent with statements made by the applicant, inconsistent with information on the application or previous applications, or inconsistent with information received by the State agency.

In establishing this verification policy, the Department had several concerns: that information provided by the applicant be verified to ensure that eligibility and allotments are correctly determined; that an inordinate amount of effort and administrative costs are not spent verifying information that is normally reported accurately or that does not affect eligibility and allotment levels; that verification standards not impede participation in the Program by placing excessive demands on applicants; and that verification standards are set to ensure national uniformity. While the verification requirements contained in the October 17, 1978 regulations may have succeeded in striking a balance among these concerns, the Department has received comments indicating that it may be necessary to make some adjustments in the requirements.

With the implementation of an ongoing quality control system set to begin on October 1, 1979, some State agencies have requested that we make the verification rules used by eligibility workers to determine the eligibility of households for food stamp benefits more consistent with the procedures used by quality control reviewers measuring the accuracy and validity of eligibility determinations.

In addition, some State agencies have requested that they be allowed to implement verification requirements in addition to those contained in the October 17, 1978 regulations. These State agencies believe that additional verification requirements could enhance program accountability.

The Department is especially interested in receiving comments on the definition of questionable information, and under which circumstances different categories of verification may be used when an item is questionable.

While the Department is very interested in receiving comments on the above element of the verification requirements, comments on all aspects of the verification requirements are welcome. Those comments that are based on experiences while operating with the current requirements, that point our problems with the current requirements or that contain recommendations for changes in the current requirements will be particularly helpful.

Dated: October 4, 1979

Robert Greenstein,

Administrator.

[FR Doc. 79-31326 Filed 10-11-79; 8:45 am]

BILLING CODE 3410-30-M

Food Safety and Quality Service

7 CFR Part 2853

Meats, Prepared Meats, and Meat Products; Grading, Certification, and Standards

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice of withdrawal.

SUMMARY: This notice withdraws a notice of proposed rulemaking to revise certain official U.S. standards for grades of meat and the related meat grading regulations. The proposed changes provided that meat would be graded only in the form of carcasses or sides and in the plant in which the animals are slaughtered. Also, certain trimming procedures and chilling conditions necessary for carcasses to be graded were clarified.

EFFECTIVE DATE: October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Goodall, Deputy Director, Meat Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–4727.

SUPPLEMENTARY INFORMATION: On January 23, 1978, the Food Safety and Quality Service published a proposed rule (43 FR 3140–3145) to revise certain official U.S. standards for grades of meat and the related meat grading regulations. Testimony was received from 100 witnesses at five public hearing sessions and 496 written comments were received by the Hearing Clerk. General reaction to the proposal was negative. Many comments are valid and can be resolved without changing the proposal's original intent. Alternatives to the proposal also have been suggested and evaluated. Because most of the needed changes are substantive, the Department will publish a revised proposal in the Federal Register shortly.

In consideration of the foregoing, the proposal published in the Federal Register (43 FR 3140–3145) on January 23, 1978, is hereby withdrawn.

Done at Washington, DC, on October 5, 1979.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 79-31652 Filed 10-11-79; 8:45 am]

BILLING CODE 3410-DM-M

7 CFR Part 2858

Dry Whey

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document announces a proposed rule to revise the U.S. Standards for Dry Whey to include whey of higher acidity made from certain types of Italian cheese and cottage cheese. The Whey Products Institute requested the Department to revise the dry whey standard to include all dry wheys. The revision will aid in the marketing of all dry wheys.

DATE: Comments must be received on or before December 11, 1979.

ADDRESS: Written comments to: Office of the Executive Secretariat, Attn: Annie Johnson, Room 3807, South Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250. (For additional information on comments, see Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Richard Webber, Chief, Dairy Standardization Branch, Poultry and Dairy Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7473.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Executive Secretariat. Comments should bear a reference to the date and page number of this issue of the **Federal Register**. All comments made pursuant to this notice will be made available for public inspection during regular business hours.

Background

This proposal expands the quality criteria for existing U.S. Standards for Dry Whey to include dry whey resulting from the manufacture of Mozzarella cheese, other Italian cheeses, and cottage cheese which has an acidity exceeding that of "sweet" whey. The present standard provides quality criteria only for "sweet" whey resulting from the manufacture of Cheddar and Swiss cheese.

Whey is the liquid portion of milk remaining after the manufacture of cheese. Dry whey is the product resulting from the removal of most of the water from liquid whey. The amount of lactic acid (acidity) in the dry whey is dependent on the type of cheese from which the whey is derived. Cheese, such as Cheddar or Swiss, produces whey of relatively low acidity—0.12 to 0.16 percent titratable acidity. Whey produced from these cheeses is termed "sweet" whey. Conversely, cottage cheese produces whey of high acidity—0.35 percent titratable acidity or above—and is called "acid" whey. Cheeses, such as Mozzarella and other Italian cheeses, will produce wheys that fall between 0.16 and 0.35 percent titratable acidity.

The production of Mozzarella cheese and other Italian cheeses is expanding more rapidly than other segments of the cheese industry. Cottage cheese production has shown only slight increases in production. This is due, in part, to the longer history of consumers' acceptance of cottage cheese which has resulted in a more stable market share. The 10-year period between 1969 and 1978 showed a 58.7 percent increase in total cheese production. Italian cheeses, however, increased 139.3 percent, whereas, cottage cheese increased only 4.5 percent during this same period.

This rapid expansion in the production of cheese and particularly in the production of Italian cheese has resulted in a proportionately greater increase in the volume of whey produced annually. Whey production for 1978 was approximately 35.9 billion pounds. During 1978, dry "sweet" whey, potentially available and eligible for USDA grading service utilizing the existing U.S. Standards for Dry Whey, equaled approximately 1,433 million pounds (67 percent). Potentially available dry whey, with acidity levels greater than that for "sweet" whey and therefore not eligible for USDA grading service, equaled approximately 720 million pounds (33 percent).

In recent years, the utilization of whey has become increasingly important to the dairy industry. Although it is not a product purchased for household consumption, whey is utilized as an ingredient in many formulated foods, and technology is being developed to utilize whey in the manufacture of many new food products.

The substantial nutritional value of dry whey as a source of calcium, potassium, zinc, high quality protein, and other minerals and vitamins, as well as its natural acidity, is increasingly sought after by the food industry as an ingredient in other foods. Dry whey also contains all of the 10 essential amino acids necessary for proper nutrition.

In addition, whey that is not utilized as either a human or an animal food product must be disposed of in an environmentally safe manner. With the advent of successively more stringent environmental antipollution standards, the cost of proper antipollution disposal systems exceeds the resources of many smaller cooperative and family-owned cheese companies. One way to minimize

the volume of pollutants that must be properly disposed of and resultant antipollution costs is to increase the utilization of cheese whey.

The proposed revision was initiated by a request from the Whey Products Institute so that all human food dry whey might have the potential benefit of the USDA voluntary grading service. The Whey Products Institute, which represents the fluid and dry whey industry, has requested assistance from the Department to expand the U.S. grade standards to include all types of whey produced.

Under the Agricultural Marketing Act of 1946 (sections 202, 203(c), and 203(d)), Congress has directed the Department to promote marketing of agricultural products in an orderly manner. One way of assisting in the orderly marketing process is the establishment of grade standards (standards of quality). Grade standards basically aid in the marketing of products by providing a common language for wholesale trading, a means of measuring value, and a basis for establishing prices.

USDA grade standards are voluntary standards provided to assist the orderly marketing process. USDA grade standards for diary products have been developed to identify the degrees of quality in the various products. Quality in general refers to the usefulness, desirability, and value of a product—its marketability—but the precise definition of quality depends on the individual commodity. Dairy plants are free to choose whether or not to use the grade standards. When dry whey is officially graded, the regulations governing the grading services of manufactured or processed dairy products, which require all graded dairy products to be produced in a USDA approved plant, would be in effect. These regulations also require a charge for the grading services provided by USDA.

In consideration of the foregoing, §§ 2858.2601 through 2858.2611 (7 CFR 2858) of Subpart O—U.S. Standards for Dry Whey would be amended, and the Table of Contents would be amended accordingly, to read as follows:

Subpart O—United States Standards for Dry Whey[1]

Definitions

Sec.

U.S. Grade

Explanation of Terms

[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

Definitions

§ 2858.2601 Whey.

"Whey" is the fluid obtained by separating the coagulum from milk, cream, and/or skim milk in cheesemaking. The acidity of the whey may be adjusted by the addition of safe and suitable pH adjusting ingredients. Salt drippings (moisture removed from cheese curd as a result of salting) shall not be collected for further processing as whey.

§ 2858.2602 Dry Whey.

"Dry Whey" is the product resulting from drying fresh whey which has been pasteurized and to which nothing has been added as a preservative. It contains all constituents, except moisture, in the same proportions as in the whey.

U.S. grade

§ 2858.2603 Nomenclature of U.S. grade.

The nomenclature of the U.S. grade is U.S. Extra.

§ 2858.2604 Basis for determination of U.S. grade.

The U.S. grade of dry whey is determined on the basis of flavor, physical appearance, bacterial estimate, coliform, milkfat content, and moisture.

§ 2858.2605 Specifications for U.S. grade.

(a) *U.S. Extra.* U.S. Extra Grade dry whey conforms to the following requirements:

(1) *Flavor* (applies to the reliquefied form) Shall have a normal whey flavor free from undesirable flavors, but may possess the following flavors to a slight degree: bitter, fermented, storage, and utensil; and the following to a definite degree: feed and weedy.

(2) *Physical appearance.* Has a uniform color, free flowing, free from lumps that do not break up under slight pressure, and practically free from visible dark particles.

(3) *Bacterial estimate.* Not more than 50,000 per gram standard plate count.

(4) *Coliform.* Not more than 10 per gram.

(5) *Milkfat content.* Not more than 1.50 percent.

(6) *Moisture content.* Not more than 5.0 percent.

§ 2858.2606 Basis for acidity classification.

Acidity classification is not a U.S. grade requirement. Acidity classification will be made available only upon a U.S. graded product and the results will be shown on the grading certificate. The dry whey will be classified for acidity as follows:

(a) *Dry sweet whey.* Dry whey not over 0.16 percent titratable acidity on a reconstituted basis.

(b) *Dry whey ——% titratable acidity.* Dry whey over 0.16 percent, but below 0.35 titratable acidity on a reconstituted basis. The blank being filled with the actual acidity.

(c) *Dry acid whey.* Dry whey with 0.35 percent or higher titratable acidity on a reconstituted basis.

§ 2858.2607 [Reserved.]

§ 2858.2608 Optional tests.

There are certain optional requirements in addition to those specified in §2858.2605. Testing for these requirements may be run occasionally at the option of the Department and will be run whenever they are requested by an interested party. These optional requirements are as follows:

(a) *Protein content (N x 6.38).* Not less than 11 percent.

(b) *Alkalinity of ash.* Not more than 225 ml. of 0.1 N HC1 per 100 grams.

(c) *Scorched particle content.* Not more than 15.0 mg.

§2858.2609 U.S. grade not assignable.

(a) Dry whey which fails to meet the requirements of U.S. Extra Grade shall not be assigned a U.S. grade.

(b) Dry whey which fails to meet the requirements of any optional test, when tests have been made, shall not be assigned a U.S. grade.

(c) Dry whey produced in a plant found on inspection to be using unsatisfactory manufacturing practices, equipment, or facilities, or to be operating under unsanitary plant conditions shall not be assigned a U.S. grade.

§ 2858.2610 Test methods.

All required tests, and optional tests when specified, shall be performed in accordance with the following methods:

(a) "Methods of Laboratory Analysis", DA Instruction series 918–103–2, 918–103–5, 918–109–2, and 918–109–3, Dairy Grading Branch, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, or the latest revision thereof.

Explanation of Terms

§ 2858.2611 Explanation of terms.

(a) *With respect to flavor*—(1) *Slight.* An attribute barely identifiable and present only to a small degree.

(2) *Definite.* An attribute readily identifiable and present to a substantial degree.

(3) *Undesirable.* Identifiable flavors in excess of the intensity permitted, or those flavors not otherwise listed.

(4) *Bitter.* Distasteful, similar to taste of quinine.

(5) *Feed.* Feed flavors such as alfalfa, sweet clover, silage or similar feed.

(6) *Fermented.* Flavors, such as fruity or yeasty, produced through unwanted chemical changes brought about by microorganisms or their enzyme systems.

(7) *Storage.* Lacking in freshness and imparting a "rough" or "harsh" aftertaste.

(8) *Utensil.* A flavor that is suggestive of improper or inadequate washing and sterilization of utensils or factory equipment.

(9) *Weedy.* Aromatic flavor characteristic of the weeds eaten by cows carried through into the dry whey.

(b) *With respect to physical appearance*—(1) *Slight pressure.* Only sufficient pressure to disintegrate the lumps readily.

(2) *Practically free.* Present only upon very critical examination.

(3) *Free flowing.* Able to be poured without interruption and free from hard caked chunks.

(4) *Lumps.* Loss of powdery consistency but not caked into hard chunks.

(5) *Uniform color.* Free from variation in shades or intensity of color.

(6) *Visible dark particles.* The presence of scorched or discolored specks readily visible to the eye.

(Agricultural Marketing Act of 1946; 60 Stat. 1087, as amended; 7 U.S.C. 1621)

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044 "Improving Government Regulations". Under those criteria, this action has not been classified "significant". An approved draft Impact Analysis has been prepared and is available from Richard Webber, Chief, Dairy Standardization Branch, Poultry and Dairy Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., on: October 3, 1979.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 31327 Filed 10-11-79; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF ACRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

Importation of Horses; Extension of Time for Comments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of extension of time for comments.

SUMMARY: This document extends the comment period for the proposed rule to permit the entry of male horses (stallions over 731 days of age), into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met. This extension of time is granted in order to provide additional time in which interested parties may prepare relevant data and information and to develop sound views and comments. The effect of this action would be to extend the comment period on the subject proposed rule for an additional 45 days.

DATE: Comments must be received on or before November 16, 1979.

ADDRESS: Send comments to Deputy Administrator, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. E. E. Herrick, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION: On August 3, 1979, there was published in the **Federal Register** (44 FR 45631–45634) a notice of proposed rulemaking which would amend the regulations (9 CFR 92.2(i)(2)(iii)(C), 92.2(i)(2)(iv), and 92.17) to permit the entry of male horses (stallions over 731 days of age), into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met.

The proposal provided for receipt of comments on or before October 2, 1979.

The Department has received requests from various interested persons for additional time in which to obtain relevant data and information and to develop sound views and comments. Since the Department is interested in receiving meaningful views and comments, these circumstances are considered justification for an extension of the time period orginally allotted for submitting views and comments. Therefore, the period for the submission of comments concerning the proposal is hereby extended until November 16, 1979.

Done at Washington, D.C., this 9th day of October 1979.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-31498 Filed 10-11-79; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 203

[Docket No. 79N-0186]

Prescription Drug Products; Patient Labeling Requirements; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of Comment Period.

SUMMARY: The agency is extending the time for submission of written comments on its proposed regulations that would require most prescription drug products for human use to be dispensed with labeling directed to the patient. The agency is taking this action because of requests from the National Association of Chain Drug Stores, Inc., and the Office of Management and Budget.

DATE: Comments by November 5, 1979.

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

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

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 6, 1979 (44 FR 40016), the Food and Drug Administration (FDA) proposed regulations that would require manufacturers to distribute labeling to patients for most prescription drug products for human use. The agency provided until October 4, 1979, for interested persons to submit written comments on the proposal to the Hearing Clerk.

In a letter dated September 18, 1979, the National Association of Chain Drug Stores, Inc., (NACDS) 1911 Jefferson Davis Hwy., Arlington, VA 22202, asked that the comment period on the proposal be extended 30 days to permit NACDS to submit the results of a study it is

conducting to analyze the economic impact of the proposed regulations. In a letter dated September 26, 1979, the Office of Management and Budget of the Executive Office of the President (OMB) asked that the comment period on the proposal be extended 20 days to permit OMB to assess fully FDA's compliance with Executive Order 12044, "Improving Government Regulations," and to permit OMB to review public comments concerning FDA's compliance with the Executive Order in relation to the proposed rulemaking. Copies of both the NACDS and OMB requests are 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.

The agency has concluded that an extension of the comment period should be granted. Accordingly, the comment period is extended to November 5, 1979. Comments may be seen in the office of the Hearing Clerk at the address given above, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 5, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-31702 Filed 10-10-79; 12:56 pm]

BILLING CODE 4110-03-M

21 CFR 310, 312, and 314

[Docket No. 79N-0388]

New Drug Regulations; Public Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice of Public Meeting.

SUMMARY: The Food and Drug Administration (FDA) announces that a public meeting will be held to receive information and views from interested persons on the agency's suggested revisions to its new drug regulations.

DATES: Written questions and comments on concept papers and specific requests for oral participation (limited to 5 minutes) should be filed by October 31, 1979. The public meeting will be held on November 7, 1979, beginning at 9 a.m.

ADDRESS: Written questions and comments on concept papers and specific requests for oral participation should be sent to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Concept papers and an executive summary of the concept papers are available from the Hearing Clerk (address same as above). The meeting will be held in the auditorium, HEW North Building, 330 Independence Ave. SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Walter M. Batts, Bureau of Drugs (HFD-14), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4720.

SUPPLEMENTARY INFORMATION: FDA intends to revise its new drug regulations in Parts 310, 312, and 314 (21 CFR Parts 310, 312, and 314) concerning review and approval of new drugs for human use. The revision of the regulations is intended to improve the efficiency of the agency's review and approval processes and to refine its policies in reviewing, processing, and communicating with sponsors and applicants on Notices of Claimed Investigational Exemption for a New Drug (IND's) and New Drug Applications (NDA's).

To undertake and coordinate this project, FDA's Bureau of Drugs formed an IND/NDA Rewrite Steering Committee composed of senior professional employees. Each steering committee member was then assigned portions of the current regulations and asked to establish a task force to review and evaluate those regulations. All professional personnel of the Bureau of Drugs were invited to volunteer for the task forces chaired by the steering committee members.

Approximately 120 agency personnel participated in the task forces and carefully reviewed current regulations and Bureau procedures on the review and approval of IND's and NDA's. Each task force drafted a paper containing the major concepts the members believed should be reflected in revised regulations. These concept papers were then summarized in a draft executive summary and both documents made available to agency personnel. On July 18, 1979, all interested FDA personnel were invited to an agency meeting to discuss the concepts developed by the individual task forces and to make any other comments on the planned rewrite of the regulations. Both oral and written comments were solicited. Later, the task forces prepared final concept papers. The concept papers along with an executive summary of the concepts are available from the agency as a single document. The agency intends to use the concept document as a basis for proposing revisions in the current IND/NDA regulations. Requests for a copy of the concept document should be directed, either in person, by telephone, or in writing, to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1753. To assure prompt attention, the outer envelope of written requests should be identified with the docket number appearing in the heading of this notice.

Before proposing amendments to current regulations, the agency wants to receive information and views on the concepts already developed. Accordingly, the agency will hold an informal public meeting on November 7, 1979, in Washington, DC, to receive information and views from interested persons. The meeting will start at 9 a.m. in the auditorium, HEW North Building, 330 Independence Ave. SW., Washington, DC 20201. At the meeting, each concept paper will be presented and discussed by a panel of Bureau of Drugs' officials. Generally, IND concepts will be discussed during the morning session, and NDA concepts will be discussed during the afternoon session. The meeting will be transcribed.

The agency asks that written comments or questions about the concept papers be submitted by October 31, 1979, to the Hearing Clerk (HFA-305), Rm. 4-65 (address same as above). The envelope containing questions or comments on the concepts should be prominently marked "IND/NDA REWRITE MEETING." Each written comment and question should be submitted on a separate page. Each comment and question should clearly identify at the top of the page the specific regulation or concept that it addresses. A person who submits written questions or comments will, if the person also requests in the submission, be permitted at the meeting to ask questions and comment orally (time limited to 5 minutes) to the appropriate panel. As time permits, any other person in attendance may comment orally or ask questions about concepts discussed at the meeting.

Dated: October 5, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79-31704 Filed 10-11-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 890

[Docket No. 78N-1200]

Medical Devices; Classification of External Limb Orthotic Components; Correction

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; Correction.

SUMMARY: This document corrects a proposal classifying external limb

orthotic (brace) components into class I (general controls).

EFFECTIVE DATE: August 28, 1979.

FOR FURTHER INFORMATION CONTACT: John Richards, Federal Register Writer (HFC-11), Food and Drug Admnistration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 79-26278 appearing at page 50478 in the **Federal Register** of Tuesday, August 28, 1979, the third sentence of the summary is corrected to read "The effect of classifying a device in class I is to require that the device meet only the general controls applicable to all devices."

Dated: October 3, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-31308 Filed 10-11-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 32-79]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Proposed Regulation.

SUMMARY: The FBI has rewritten its rules for exempting the FBI Central Records System (CRS) from certain provisions of 5 U.S.C. 552a in order to explain in more clear and concise language the reasons such exemptions are necessary. In rewriting these proposed rules the FBI is eliminating the exemptions formerly claimed from subsection (c)(4) and (m), pursuant to 5 U.S.C. 552a(j) and (k). Except for these deletions and other changes in the text, however, this proposed rule does not alter practices and procedures currently in effect.

This regulation proposes to exempt the CRS from 5 U.S.C. 552a(c)(3), (d), (e)(1), (2), and (3), (e)(4)(G) and (H), (e)(8), (f) and (g). The purposes of the exemptions are to maintain the confidentiality and security of information compiled for purposes of criminal investigations or civil or regulatory law enforcement, or of reports compiled at any stage of the criminal law enforcement process, and to maintain the confidentiality and security of information that is specifically authorized to be kept secret in the interest of national defense or foreign policy. Some records contained in this system of records may not be subject to exemption. A determination will be made as to the exemption of a specific record at the time a request for notification or access is made.

DATES: All comments must be received by the thirtieth day following the date of publication of this notice.

ADDRESS: All comments should be addressed to the Administrative Counsel, Office of Management and Finance, Department of Justice, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: William J. Snider, Office of Management and Finance (202-633-4165).

The authority for this proposed rule is 5 U.S.C. 552a. Accordingly, it is proposed that 28 CFR 16.96 be amended to more clearly describe the justifications in paragraphs (b) (1) through (6) and eliminating (b)(7). The new language will read as follows:

§ 16.96 Exemption of Federal Bureau of Investigation Systems—Limited Access.

(a) The following system of records is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (2), and (3), (e)(4)(G) and (H), (e)(8), (f) and (g).

(1) *Central Records System (CRS) (JUSTICE/FBI-002).* These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552 (j) and (k). Where compliance would not appear to interfere with or adversely affect the overall law enforcement process, the applicable exemption may be waived by the FBI.

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From paragraph (c)(3) because making available to a record subject the accounting of disclosures from records concerning him/her would reveal investigative interest by not only the FBI, but also by the recipient agency. This would permit the record subject to take appropriate measures to impede the investigation, e.g., destroy evidence, intimidate potential witnesses or flee the area to avoid the thrust of the investigation.

(2) From paragraphs (d), (e)(4) (G) and (H), (f) and (g) because these provisions concern individual access to investigative records, compliance with which could interfere with the overall law enforcement process by revealing a pending sensitive investigation, possibly identify a confidential source or disclose information which would constitute an unwarranted invasion of another individual's personal privacy. In addition, from paragraph (d)(2) because to require the FBI to amend information thought to be incorrect, irrelevant or untimely might, because of the nature of the information collected and the essential length of time it is maintained, would create an impossible administrative and investigative burden by forcing the agency to continuously retrograde its investigations attempting to resolve questions of accuracy, etc.

(3) From paragraph (e)(1) because:

(i) It is not possible in all instances to determine relevancy or necessity of specific information in the early stages of a criminal or other investigation.

(ii) Relevance and necessity are questions of judgment and timing; what appears relevant and necessary when collected ultimately may be deemed unnecessary. It is only after the information is assessed that its relevancy and necessity in a specific investigative activity can be established.

(iii) In any investigation the FBI might obtain information concerning violations of law not under its jurisdiction, but in the interest of effective law enforcement, dissemination will be made to the agency charged with enforcing such law.

(iv) In interviewing individuals or obtaining other forms of evidence during an investigation, information could be obtained, the nature of which would leave in doubt its relevancy and necessity. Such information, however, could be relevant to another investigation or to an investigative activity under the jurisdiction of another agency.

(4) From paragraph (e)(2) because the nature of criminal and other investigative activities is such that vital information about an individual can only be obtained from other persons who are familiar with such individual and his/her activities. In such investigations it is not feasible to rely upon information furnished by the individual concerning his own activities.

(5) From paragraph (e)(3) because disclosure would provide the subject with substantial information which could impede or compromise the investigation. The individual could seriously interfere with undercover investigative activities and could take appropriate steps to evade the investigation or flee a specific area.

(6) From paragraph (e)(8) because the notice requirements of this provision could seriously interfere with a law enforcement activity by alerting the subject of a criminal or other investigation of existing investigative interest.

* * * * *

Dated: September 20, 1979.

William Van Stavoren,

Acting Assistant Attorney General for Administration.

[FR Doc. 79-31232 Filed 10-11-79; 8:45 am]

BILLING CODE 4410-02-M

28 CFR Part 16

[AAG/A Order No. 34-79]

Production or Disclosure of Material or Information; Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Proposed Rule.

SUMMARY: In the Notice Section of today's **Federal Register**, the Department of Justice proposes to exempt a new system, the United States National Central Bureau, INTERPOL, Criminal Investigative Records System, JUSTICE/DAG-007, from the provisions of subsections (c)(3) and (4), (d), (e)(1), (2), and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), and (g) of the Privacy Act, 5 U.S.C. 552a. This exemption is proposed in those cases where a request for access to a case file is made prior to resolution of the case or during an ongoing investigation. It is needed to protect against compromise during the investigation and to protect the identity of confidential sources.

DATES: All comments must be received by October 25, 1979.

ADDRESS: All comments should be addressed to the Administrative Counsel, Office of Management and Finance, Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

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

The authority for this proposed rule is 5 U.S.C. 5522(j)(2) and (k)(2). Accordingly it is proposed that 28 CFR 16.71 be amended by adding paragraphs (c) and (d) as follows:

§ 16.71 Exemption of the Office of the Deputy Attorney General Systems.

* * * * *

(c) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e) (1), (2), and (3), (e) (4) (G) and (H), (e) (5) and (8), (f), and (g):

(1) The Criminal Investigative Records System (JUSTICE/DAG-007). This exemption applies only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2) and (k)(2).

(d) Exemptions from the particular subsections are justified for the following reasons:

(1) From paragraph (c)(3) because the release of accounting disclosures would place the subject of an investigation on notice that he is under investigation and provide him with significant information concerning the nature of the investigation, thus resulting in a serious impediment to law enforcement.

(2) From paragraph (c)(4), (d), (e)(4)(G), and (H), (f) and (g) because these provisions concern individual access to records and such access might compromise ongoing investigations, reveal investigatory techniques and confidential informants, and invade the privacy of private citizens who provide information in connection with a particular investigation.

(3) From paragraph (e)(1) because information received in the course of an international criminal investigation may involve a violation of state or local law, and it is beneficial to maintain this information to provide investigative leads to state and local law enforcement agencies.

(4) From paragraph (e)(2) because collecting information from the subject of criminal investigations would thwart the investigation by placing the subject on notice.

(5) From paragraph (e)(3) because supplying an individual with a statement of the intended use of the requested information could compromise the existence of a confidential investigation, and may inhibit cooperation.

(6) From paragraph (e)(5) because the vast majority of these records come from local criminal justice agencies and it is administratively impossible to ensure that the records comply with this provision. Submitting agencies are, however, urged on a continuing basis to ensure that their records are accurate and include all dispositions.

(7) From paragraph (e)(8) because the notice requirements of this provision could present a serious impediment to law enforcement by revealing investigative techniques, procedures, and the existence of confidential investigations.

Dated: September 27, 1979.

Kevin D. Rooney,

Assistant Attorney General for Administration.

[FR Doc. 79-31234 Filed 10-11-79; 8:45 am]

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1337-1]

Approval and Promulgation of Implementation Plans; Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: The State of Kansas has submitted a State Implementation Plan (SIP) revision for the Kansas City ozone nonattainment area to fulfull the requirements of the Clean Air Act Amendments of 1977. Interested persons are invited to examine the Kansas SIP revision and submit comments on it. A notice of proposed rulemaking describing the revision will be published in the **Federal Register** at a later date. The period for submittal of comments will extend until November 13, 1979.

ADDRESSES: Comments should be sent to: David Doyle, Air Support Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. The Kansas submission may be examined during normal business hours at the above address and also at the following locations: Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street, S.W., Washington, D.C. 20460; the Kansas Department of Health and Environment, Forbes Field, Topeka, Kansas 66620; and the Kansas City, Kansas-Wyandotte County Health Department, 619 Ann Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: David Doyle, 816-374-3791, (FTS) 758-3791.

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act as amended in 1977 requires that States revise their SIPs to provide for the attainment of the National Ambient Air Quality Standards (NAAQS) in areas which have been designated as nonattainment. The State of Kansas has submitted a SIP revision in response to requirements of the Clean Air Act.

The purpose of this notice is to announce that the revision has been formally submitted and is available for public inspection. The public is encouraged to submit written comments on it. A description of the revision and proposed EPA action on the revision will be published in the **Federal Register** as part of a notice of proposed rulemaking at a later date.

(42 U.S.C. 7410)

Dated: September 29, 1979.

Earl S. Stephenson,

Acting Regional Administrator.

[FR Doc. 79-31561 Filed 10-11-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 81

[FRL 1336-7]

State of Texas; Section 107; Attainment Status Designations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The State of Texas has revised its list of air quality attainment designations for eleven areas within the State with respect to particulate matter (TSP) and two areas with respect to ozone (O_3). For TSP, the State has changed three areas from nonattainment to attainment and eight areas from nonattainment to unclassified. For ozone the State has changed two areas from nonattainment to attainment.

On April 6, 1979, the State of Texas submitted these revisions to the EPA, in Texas Air Control Board (TACB) Resolution R79-2. This notice proposes approval of these revisions to the air quality attainment designations for Texas, and solicits public comment on this proposed action.

DATE: Comments must be received on or before December 11, 1979.

ADDRESSES: Submit comments to: Air Program Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Jerry M. Stubberfield, Chief, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, Dallas, Texas 75270, (214) 767-2742.

Background

Section 107(d)(1) of the Clean Air Act required the States to submit to the Administrator a list identifying all air quality control regions, or portions thereof, that have not attained the National Ambient Air Quality Standards (NAAQS). The Act further required that the Administrator promulgate this list with such modifications as he deemed necessary, as required under Section 107(d)(2) of the Act. On March 3, 1978, at 43 FR 9037, the Administrator promulgated nonattainment designations for the State of Texas for total suspended particulates (TSP), ozone (O_3), and carbon monoxide (CO). These designations were effective immediately and public comment was solicited. On September 11, 1978, at 43 FR 40412, in response to comments received, the Administrator revised and amended certain of the original designations. The Act also provided that a State may, from time to time, review and revise its designations list and submit these revisions to the Administrator for promulgation, as specified under Section 107(d)(5). The criteria and policy guidelines governing these revisions and the Agency's review of them are the same as those used in the original designations and which are summarized in the March 3, 1978 and September 11, 1978 **Federal Registers.** The State of Texas has revised its original designation list and on April 6, 1979, submitted these revisions to the EPA in TACB Resolution R79-2.

TSP

The changes listed by the State of Texas for TSP are as follows:

A. Change from "Does Not Meet Primary Standards" to "Better Than National Standards."

1. Limited areas in Hidalgo County.
2. Limited area in Maverick County.

B. Change from "Does Not Meet Primary Standards" to "Cannot Be Classified."

1. Limited areas in Galveston County.
2. Limited area in Bexar County.
3. Under "Limited areas in Harris County," Houston 2*, and Houston 3 are redesignated as noted above.
4. Under "Limited areas in El Paso County," El Paso 3 is redesignated as noted above.

C. Change from "Does Not Meet Secondary Standards" to "Cannot Be Classified."

1. Under "Limited areas in Tarrant County," Fort Worth 2, Fort Worth 3, and Fort Worth 4 are redesignated as noted above.

Redesignation of Limited Areas in Hidalgo and Maverick Counties

The areas originally designated as nonattainment for primary TSP standards in Hidalgo and Maverick Counties were as follows: in Hidalgo County, a portion of the City of McAllen and a portion of the City of Progresso, and; in Maverick County, the City of Eagle Pass. The State of Texas has revised the designations for these three areas to attainment status on the basis of the Agency's Rural Fugitive Dust Policy (RFDP). Information in support of the redesignations was submitted by the State on July 25, 1978. A review of this information indicated that these areas met the criteria for implementation of the RFDP, that is: (1) the lack of major industrial development or absence of significant industrial particulate emissions, and (2) low urbanized population (i.e. less than 50,000 for western states).

Based on microscopic analyses performed on filters from the three locations, the State determined that the material collected on the filters was predominantly soil related indicating no significant impact from stationary sources. All three areas also met the population criterion as specified above. Therefore, EPA proposes to redesignate these areas as "better than national standards" in accordance with the State's revision.

Redesignation of Limited Areas in Galveston, Bexar, Harris, El Paso, and Tarrant Counties

The areas which were originally designated as nonattainment for primary TSP standards and presently under consideration for revision are as follows: in Galveston County, a portion of Texas City; in Bexar County, a portion of the City of San Antonio; in Harris County, Houston 2 and Houston 3, and in El Paso County, El Paso 3. The areas originally designated as nonattainment for secondary TSP standards were as follows: in Tarrant County, Fort Worth 2, Fort Worth 3, and Fort Worth 4. The State has revised the designations for these eight areas to "cannot be classified" on the basis that the monitoring sites in all eight areas are unrepresentative. Information supporting the redesignations was submitted by the State on August 11, 1978 and November 27, 1978. A review of this information indicated that, for each of these areas, the monitor is located at ground level and unduly influenced by reentrained road dust. Therefore, EPA proposes to redesignate these eight areas as "cannot be classified," in accordance with the State's revisions.

Ozone

The changes listed by the State of Texas for O_3 are as follows:

1. Travis County from "does not meet primary standard" to "cannot be classified or better than national standards."

2. McLennan County from "does not meet primary standards" to "cannot be classified or better than national standards."

*This notation was used by the State of Texas in their original designations to differentiate among the various nonattainment areas within one county. For example, in Harris County, five areas within the City of Houston were designated as nonattainment, i.e. Houston 1, Houston 2, Houston 3, Houston 4, and Houston 5.

Under Section 107(d) of the Clean Air Act, the original designations were to be based upon air quality levels as of enactment of the Amendments (August 7, 1977). States were required by EPA guidance to consider the most recent four quarters of monitored ambient air quality data available. A violation of the oxidant standard was considered to have occurred when the second hourly value at any site exceeded the standard. Subsequent to these designations, the EPA promulgated revisions (44 FR 8218, February 8, 1979) to the standard as follows: (1) the designated pollutant was changed from photochemical oxidants to ozone, (2) the level of the standard was changed from 0.08 parts per million (ppm) to 0.12 ppm, and (3) the method of determining a violation of the standard was changed. Under the new standard, a violation is determined to have occurred when the expected number of daily maximum ozone values above the level of the standard exceeds one.

In light of these changes, the State of Texas reevaluated the air quality data for all of the areas originally designated as nonattainment and determined that for Travis and McLennan Counties, the expected number of exceedances was less than one, which in turn, indicates attainment status. Therefore, EPA proposes to redesignate these areas as "better than national standards" in accordance with the State's revisions.

All other Section 107 designations for the State of Texas not discussed in this notice remain intact.

With respect to those areas which the State has changed to attainment and the EPA proposes to redesignate as such, until EPA promulgates a final redesignation changing the areas to attainment, the July 1, 1979 deadline for approal of state implementation plan revisions satisfying Part D of the 1977 Clean Air Act Amendments will continue to apply.

All comments should be submitted to: Air Program Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

This notice is issued under the authority of Sections 107(d), 171(2) and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7407(d), 7501(2) and 7601(a).

Dated: September 6, 1979.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 79-31568 Filed 10-11-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 250

[FRL 1337-5]

Hazardous Waste Guidelines and Regulations; Extension of Comment Period on Proposed Rule

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Extension of comment period on supplemental proposed rule.

SUMMARY: This notice extends for forty-five (45) days the deadline for commenting on EPA's August 22, 1979, proposal to list waste from equipment cleaning from flexoprinting in the manufacture of paperboard boxes, waste from press clean-up in newspaper printing, washwater from printing ink equipment cleaning, and lead/phenolic sand casting waste from malleable iron foundries as hazardous wastes under Section 3001 of the Resource Conservation and Recovery Act, as amended.

DATES: Comments on these four proposed wastes are now due no later than November 26, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Alan S. Corson, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Phone 202/755-9187.

SUPPLEMENTARY INFORMATION: On August 22, 1979 (44 FR 49402-49404), EPA proposed to add approximately forty-five wastes to the proposed list of hazardous waste which the Agency published on December 18, 1978 (43 FR 58946-58959). During the last few weeks, EPA has received a number of requests for an extension of the comment period on four of its proposed supplemental listings (waste from equipment cleaning from flexoprinting in the manufacture of paperboard boxes, waste from press clean-up in newspaper printing, washwater from printing ink equipment cleaning, and lead/phenolic sand casting waste from malleable iron foundries) on the grounds that some of the technical data supporting the listings was not available for review. In order to allow the public to comment on this data, EPA is extending the comment period on these four wastes streams for forty-five-(45) days. Because the Agency is on a court-ordered schedule to promulgate final Section 3001 regulations by December 31, 1979, and because other requests for time extensions received by EPA were unjustified, no additional extensions of the comment period on EPA's supplemental list of hazardous waste will be granted.

Dated: October 10, 1979.

Swep T. Davis,

Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 79-31705 Filed 10-11-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

Health Care Financing Administration

42 CFR Parts 74 and 405

Clinical Laboratories; Personnel Standards

AGENCIES: Center for Disease Control, Public Health Service, and Health Care Financing Administration, Department of Health, Education, and Welfare.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Department proposes new rules applicable to supervisory technical personnel in clinical laboratories. Existing rules will be replaced by a single set of requirements applicable to the director, technical supervisors, bench supervisors, technologists, and cytotechnologists. These requirements will apply to the Medicare program and to the Clinical Laboratories Improvement Act.

DATES: Comments must be received on or before December 11, 1979.

ADDRESS: Comments or inquiries may be submitted to: Dr. Louis C. LaMotte, Director, Licensure and Proficiency Testing Division, Bureau of Laboratories, Center for Disease Control, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Comments will be available for public inspection at this address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Dr. Louis C. LaMotte (404) 329-3824 or FTS: 236-3824.

SUPPLEMENTARY INFORMATION:

Background

The Center for Disease Control of the Public Health Service has been administering the licensure program for clinical laboratories in interstate commerce. This program was established by Section 353 of the Public Health Service Act, 42 U.S.C. 263a. That Section was enacted by the Clinical Laboratories Improvement Act of 1967, Pub. L. 90-174. The Health Care Financing Administration has been responsible for assuring that

independent laboratories whose services are reimbursable under the Medicare/Medicaid programs meet certain conditions related to quality of services. See Section 1861(s) (3), (10), and (11) of the Social Security Act, 42 U.S.C. 1395x(s) (3), (10), (11), and 42 CFR 405.1310 et seq. The Health Care Financing Administration has also been responsible for determining that a hospital which is participating in the Medicare program meets certain requirements. See Section 1861(e)(9) of the Social Security Act, 42 U.S.C. 1395x(e)(9). The Secretary has established the requirements which a hospital laboratory must meet if the hospital is to qualify for Medicare participation. See 42 CFR 405.1028.

For some time, the Department has been seeking to unify its requirements for clinical laboratories. The proposed amendments will result in a single, comprehensive, and integrated set of technical and scientific standards for clinical laboratory personnel. These standards are applied to both Medicare participants and interstate laboratories. In accordance with an Interagency Agreement between the Public Health Service and the Health Care Financing Administration, all technical and scientific standards for clinical laboratories have been consolidated in the Public Health Service regulations (Chapter I of Title 42 of the Code of Federal Regulations). The administrative requirements related to surveys, licensure, and appeals are part of the Health Care Financing Administration's regulations (Chapter IV of Title 42 of the Code of Federal Regulations). All technical and scientific matters (including personnel standards) arising under both programs are the responsibility of the Public Health Service. The Center for Disease Control has responsibility for monitoring the effectiveness of the survey activities of States and approved national accreditation bodies. The Health Care Financing Administration has responsibility for the survey of laboratories, their licensure under the Clinical Laboratories Improvement Act, and their approval for Medicare reimbursement purposes.

The proposed personnel standards are designed for use by all clinical laboratories participating in the Medicare program. There is, however, one situation not completely resolved by these proposed unified regulations. Some Medicare certified laboratories include blood banks and transfusion services which are also regulated by the Food and Drug Administration (FDA) in the Public Health Service. An interagency agreement between the Health Care Financing Administration (HCFA) and PHS/FDA is currently being developed which will clarify the application of Medicare and FDA standards to this component of the laboratory. PHS/FDA and HCFA will be responsible for describing the circumstances under which one set of standards or another will be applied.

Prior Proceedings

On June 22, 1976, the Department published a Notice of Intent to revise these standards (41 FR 25043). A public meeting was held on July 21, 1976, at Public Health Service headquarters in Rockville, Maryland, to receive oral comments. The views expressed in oral and written comments varied. Some people urged greater reliance on formal educational requirements for all levels of laboratory personnel, and some urged that requirements for all personnel categories except that of laboratory director be eliminated.

Experience Under the Present Regulations

The Department's program for regulating clinical laboratory practice is designed to have three major interdependent components: personnel standards, quality control standards, and standards for performance based on proficiency testing. If personnel standards are met by a laboratory, an expectation exists that laboratory staff can perform adequately. Similarly, if standards for quality control are met and performance in proficiency testing is satisfactory, the expectation of accurate and reliable services is further reinforced. The underlying rationale is that all three components are essential for ensuring the accuracy and reliability of the tests performed in clinical laboratories. No one component alone is sufficient.

In theory, the primary emphasis of the regulatory program for clinical laboratories can be on the measurement of actual performance and output through such mechanisms as quality control and proficiency testing. In the past, during the implementation of both Medicare and CLIA 1967, HEW has assumed that if certain types of laboratory personnel do not meet basic levels of education, training, and experience, that the quality of laboratory tests would be compromised. This assumption has been generally held by the medical and medical laboratory professions and is explicitly stated in Report No. 96–130 of the Senate Committee on Labor and Human Resources on S590 (CLIA '79). The Department invites public comment on this assumption.

The Department's current personnel standards for clinical laboratories (see 42 CFR 74.30–74.31, 405.1028(d), (g), and (j), and 405.1310–405.1315) were developed over 10 years ago. After a decade of experience in using these standards, it has become apparent that the existing structure for personnel standards provides clinical laboratories with numerous opportunities to meet "the letter of the law" and still not be adequately supervised in all specialties. The primary problem is that the requirements do not in every instance require that personnel, technically competent in a given specialty, be available on the premises in a laboratory, on a given shift, to review and report test results and to be held personally accountable that requirements are met, that policies are adhered to, and that procedures are properly performed.

The Proposed Amendments

The proposed regulations increase the number of specialties from 8 to 11 and are intended to assure technical accountability in each specialty in which a clinical laboratory provides services with respect to:

1. *Selection of appropriate test systems.* Consideration must be given to the needs of clinicians; testing volume anticipated; sensitivity and specificity requirements; and the availability, cost, and stability of chemical and biological materials, and instrumentation, and equipment.

2. *Development or designation of an appropriate protocol for on-site validation of each test system.* This validation protocol must require detailed documentation of each step in the process to ensure that the test system is properly installed and validated.

3. *Development of a detailed procedure manual.* This manual must describe the technical supervisor's requirements for each step in each of the test systems, and the criteria for determining when a test system is "in control," "out of control," or trending toward being "out of control." The manual must also describe the procedure and criteria for bringing a test system back "in control" and establishing that it is "in control."

4. *Provision of a technically competent individual to certify for each specialty and on each shift that test systems in operation are "in control" for each test run.* In addition, that individual will be responsible for adherence to both regulatory and local management requirements in the

production, documentation, and reporting of test results.

The amendments proposed below are designed to ensure that the essential functions and responsibilities reflected in items 104 in the preceding paragraphs are properly carried out in the laboratory. Theoretically, one individual, such as a pathologist, who is technically competent in all specialties could assume the responsibilities of technical supervisor and bench supervisor, and carry out all supervisory functions.

In actual practice, however, the volume of work in larger laboratories requires a division of labor among the laboratory staff; therefore, the amendments identify two classes of technical supervisory personnel who would qualify to perform these functions. These classes of personnel are: *technical supervisor*, who in many hospital laboratories is a pathologist, and *bench supervisor*, who in many hospital laboratories is an experienced medical technologist.

Responsibilities of Technical Supervisors

The technical supervisor has a level of academic preparation, training, and experience that provides an understanding of the theory of test systems in the specialty for which he or she is responsible. This is to ensure that the functions and responsibilities discussed in items 1–4 can be properly carried out. The technical supervisor periodically monitors the operation of the test systems which he or she approves, hires and assists in training the support staff, and attests in writing at least annually to the competency of bench supervisors and other personnel producing test results. The technical supervisor is primarily accountable for the accuracy and reliability of services provided in the specialty for which he or she is responsible.

Responsibilities of Bench Supervisors

The bench supervisor is accountable for the certifications stated in item 4, and is accountable for one or more specialties. He or she has a level of education, training, and experience in each of the specialties that enables him or her to certify that test systems are in control and that regulatory requirements are met. The bench supervisor is primarily accountable for overseeing the actual performance of tests, and must ensure that a given test system is operated in accordance with the laboratory's procedure manual and that applicable quality control requirements are met.

Other Personnel

Although qualification requirements are stated for technologists and cytotechnologists, no specific qualification requirements are provided for technicians, laboratory aides, or other support personnel. Under the regulatory structure being proposed, the technical supervisor is responsible for using support personnel who are competent to perform the specific tests assigned to them.

Laboratory Director

Since specific accountabilty for the accuracy and reliability of laboratory tests is placed on individuals qualified as technical supervisors and bench supervisors, the current requirements for qualifying as a laboratory director (42 CFR 405.1312) are replaced with a less burdensome requirement. Section 74.33(a) as proposed merely requires that an individual qualified as a technical supervisor in at least one specialty assume overall responsibility for the management of the laboratory. Any person who can qualify as a technical supervisor can therefore qualify as a laboratory director. In practice, the pathologist in a hospital laboratory could serve as director and technical supervisor; a chemist with a doctoral degree also could serve as director. A laboratory director, however, has no line authority for a technical matter unless he or she is the designated technical supervisor for that specialty area.

Flexibility

An individual may qualify as a technical supervisor or bench supervisor in a variety of ways; for example, through education, practical experience, training, and competency examinations. The amendments also permit individuals who have previously qualified at specified levels under the Department of Health, Education, and Welfare regulations to continue to perform at those levels.

Competency examinations through which people may qualify as bench supervisors will be developed. Examinations for technical supervisors in each of the 11 specialties are, however, costly to develop and administer. These examinations, therefore, will be provided only if the Secretary determines that they are needed.

Status of Accredited Facilities

Before final rules are issued, the Secretary will determine whether the personnel standards of the Joint Commission on the Accreditation of Hospitals and the American Osteopathic Association are as stringent as the final standards which the Secretary is prepared to publish. If so, the "deemed" status of laboratories certified by these organizations will continue.

Issues for Public Consideration

There are significant changes in the structure of the proposed standards for personnel as compared to the previous standards. While we believe that they will be more efficient and effective in assuring the quality of test results, we desire public input on all aspects of this proposal, including both comments and objective data regarding the following issues:

1. The cost-effectiveness of this proposal as a method of achieving improved laboratory performance. Possibility of achieving the same goal through alternate proposals, for example, a more uniformly applied system of proficiency testing.
2. Costs or savings to clinical laboratories, both hospital and independent, especially with respect to Bench Supervisors.
3. Impact on staffing patterns when using existing laboratory personnel to fill the role of Bench Supervisor.
4. Impact on availability of qualified personnel, that is, the use of new laboratory personnel from the marketplace.
5. The need for standards for cytotechnologists and technologists.
6. Assurance that laboratory services will become more accurate and reliable.
7. Impact on small and rural hospitals.

It is, therefore, proposed to amend Parts 405 and 74 of Title 42, Code of Federal Regulations, as set forth below.

Dated: June 14, 1979.

Charles Miller,

Acting Assistant Secretary for Health.

Dated: June 14, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: October 5, 1979.

Patricia Roberts Harris,

Secretary.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

It is proposed to amend 42 CFR Part 405 as follows:

§§ 405.1028, 405.1310, 405.1311, 405.1314 [Amended]

§§ 405.1313 and 405.1315 [Reserved]

1. Sections 405.1028(g), 405.1310(d), (e), (g), (h), (i), (j), and (k), 405.1311(b), 405.1313, 405.1314(b), and 405.1315 are revoked and reserved.

2. Section 405.1028, paragraph (d), is revised to read as follows:

§ 405.1028 Condition of participation—Laboratories.

* * * * *

(d) *Standard: personnel.* Personnel meet the requirements of Subpart D of 42 CFR Part 74.

3. Section 405.1312 is revised to read as follows:

§ 405.1312 Condition—clinical laboratory personnel.

Personnel meet the requirements of Subpart D of 42 CFR Part 74.

PART 74—CLINICAL LABORATORIES

It is proposed to amend 42 CFR Part 74 as follows:

1. The table of sections for Subpart D—Personnel Standards is revised to read as follows:

Subpart D—Personnel Standards

Sec.

2. § 74.1 is amended by adding a new paragraph (n) which reads as follows:

§ 74.1 Definitions.

* * * * *

(n) "Approved clinical laboratory" means a laboratory licensed under this part, or certified under Title XVIII of the Social Security Act, or, a laboratory located in a State which regulates clinical laboratory personnel, if the laboratory is acceptable to that State.

3. The footnote § 74.2(b) is revoked, paragraphs (b) and (c) are redesignated paragraphs (c) and (d), respectively, and a new paragraph (b) is added to read as follows:

§ 74.2 Applicability.

* * * * *

(b) Except as provided in Subpart D of this part, independent laboratories and hospitals participating in the Medicare program under Title XVIII of the Social Security Act, 42 U.S.C. 1395 and following, are subject to the provisions of Subchapter B of Chapter IV of this title.

4. The regulations on personnel standards 42 CFR Part 74, Subpart D, are revised to read as follows:

Subpart D—Personnel Standards

§ 74.30 Scope.

(a) This subpart establishes the requirements pertaining to clinical laboratory personnel for purposes of the Clinical Laboratories Improvement Act of 1967 and the Medicare program.

(b) The Clinical Laboratories Improvement Act of 1967, Public Law 90–174, enacted Section 353 of the Public Health Service Act, 42 U.S.C. 263a.

(c) The Medicare program was established by Title XVIII of the Social Security Act, 42 U.S.C. 1395 and following, entitled "Health Insurance for the Aged and Disabled." Section 1861(e)(9) of the Social Security Act, 42 U.S.C. 1395x(e)(9), authorizes the Secretary to issue regulations dealing with the health and safety of individuals who are provided services in hospitals participating in the Medicare program. Section 1861(s) of that Act, 42 U.S.C. 1395x(s), provides similar authority with respect to independent clinical laboratories.

§ 74.31 General requirements.

(a) A clinical laboratory must be in compliance with the requirements in this subpart.

(b) The personnel of a clincal laboratory must be licensed in accordance with applicable Federal, State, and local laws.

(c) In evaluating academic coursework, recognition may be given only to coursework earned in an accredited institution. Academic coursework earned outside the United States may be recognized if the Secretary determines that it is equivalent to coursework earned in an accredited institution.

(d) In evaluating clinical laboratory experience, part-time work in a clinical laboratory may be prorated on the basis that 2,000 hours equals 1 year of experience. Experience may be accumulated in more than one specialty concurrently.

§ 74.32 Staffing.

(a) A clinical laboratory's written policies specify, for each specialty in which the laboratory performs tests, the minimum amount of time a technical supervisor spends in the laboratory during its regular operating hours. That time is commensurate with the laboratory's workload and needs in each specialty for which the technical supervisor is responsible.

(b) The technical supervisor is present in the laboratory during regular working hours for at least the amount of time specified in the laboratory's written policies.

(c) For each shift, or other working period, during which the laboratory provides services, an individual qualified as a bench supervisor is present in the laboratory at all times for each specialty in which tests are being performed and the results recorded.

(d) The technical supervisor determines the competency of each person under his or her supervision. At least annually the technical supervisor attests in writing that each person who performs a test is competent to conduct that test. In addition, the technical supervisor attests in writing that individuals employed by the laboratory as technologists and cytotechnologists meet the personnel qualification requirements in § 74.35 of this subpart.

§ 74.33 Technical supervisory personnel.

The laboratory has a sufficient number of technical supervisory personnel who are qualified by education, training, and experience to conduct, interpret, and supervise the performance of tests and procedures in each specialty in which the laboratory provides services that are subject to Departmental requirements.

(a) *Standard: Laboratory director.* Each clinical laboratory designates an individual who has overall responsibility for the management of the laboratory. This individual is qualified as a technical supervisor in at least one of the specialties in which the laboratory performs tests. He or she ensures that all technical supervisors conform to the laboratory's requirements with respect to the on-site evaluation of the accuracy and reliability of test systems used by the laboratory.

(b) *Standard: Technical supervisor.* For each specialty in which the laboratory provides services, there is a qualified technical supervisor who is accountable for the accuracy, reliability, and overall quality of testing services. The technical supervisor's responsibilities include selection or endorsement, validation, documentation, and installation of test systems, and development and dissemination of procedure manuals which conform to regulatory requirements and which state the requirements, policies, and procedures of the laboratory for each test system in use in the laboratory. The technical supervisor in a specialty is responsible for selection and retention of qualified individuals to serve as bench supervisors. He or she attests in writing at least annually that the individuals selected as bench supervisors meet applicable regulatory requirements and that they have an adequate knowledge

of the test systems for which they are responsible.

(c) *Standard: Bench supervisor.* (1) For each specialty in which the laboratory provides services, there is a qualified bench supervisor who is accountable for supervising the other supportive technical personnel. This bench supervisor ensures that applicable regulatory requirements and the requirements of the laboratory's procedure manual are met and that test systems are "in control" for each "run" from which test results are reported.

(2) A technical supervisor may serve as a bench supervisor in a specialty for which he or she is qualified.

§ 74.34. Qualifications of technical supervisory personnel.

Each person who serves as a technical supervisor or as a bench supervisor meets at least one of the appropriate requirements indicated in the following table for each specialty for which he or she is responsible. (An explanation of the qualifications follows the table.)

Specialty	Qualifications for technical supervisor	Qualifications for bench supervisor
Serology	A(a) or B or C or E	F or G or H or I.
Microbiology	A(a) or B or D or E	F or G or H or I.
Hematology	A(a) or B or C or E	F or G or H or I.
Immunohematology (transfusion service)	A(a) or B or E	F or G or H or I.
Immunohematology (non-transfusion service)	A(a) or B or C or E	F or G or H or I.
Clinical chemistry	A(a) or B or D or E	F or G or H or I.
Radiobioassay	A(a) or B or C or E	F or G or H or I.
Histopathology	A(b)	A.
Cytopathology	A(b) or A(c) or E	J or K.
Oral pathology	A(b) or A(d)	A(b) or A(d).
Cytogenetics	B or C	F or G or H or I.
Histocompatibility testing	B or C or E	F or G or H or I.

A. A person with an earned doctoral degree in medicine, osteopathy, or dentistry who is board-certified or board-eligible in accordance with the rules of the American Board of Pathology or the American Osteopathic Board of Pathology in (a) clinical pathology or (b) anatomical pathology; or by the American Society of Cytology in (c) cytopathology; or by the American Board of Oral Pathology in (d) oral pathology.

B. A person with an earned doctoral degree in medicine or osteopathy, with at least 4 years of clinical laboratory experience in the designated specialty acquired after the doctoral degree was received. Two years of experience in the specialty as a bench supervisor before the doctoral degree was received may be applied against the required 4 years of clinical laboratory experience. Only 2 years of clinical laboratory experience in immunohematology (transfusion service) is required after receipt of the doctoral degree in medicine or osteopathy for an individual to serve as technical supervisor in that specialty.

C. A person with a graduate degree in microbiology, chemistry, immunology, medical technology, or biology, with at least 36 semester hours (or equivalent trimester or quarter hours) pertinent to the clinical laboratory sciences; *or*, a person who has completed coursework in a specialty which the Secretary determines is equivalent to the coursework leading to the specified graduate degree *and* who has had at least 4 years of clinical laboratory experience in the designated specialty after receiving the graduate degree or equivalent coursework. Two years of experience in a specialty as a bench supervisor, received before the graduate degree was received or the equivalent coursework was completed, may be applied against the required 4 years of clinical laboratory experience. Twelve of the required 36 semester hours (or equivalent trimester or quarter hours) may have been earned in an undergraduate curriculum.

D. Same as C., except that a graduate degree in microbiology or chemistry, or coursework which the Secretary determines equivalent, is required to serve as a technical supervisor in microbiology or clinical chemistry, respectively.

E. A person who qualified under HEW regulations before the effective date of these regulations as a technical supervisor in the designated specialty.

F. A person with (a) a bachelor's degree in medical technology, *or* (b) 90 semester hours (or equivalent trimester or quarter hours), *or* (c) 60 semester hours (or equivalent trimester or quarter hours) if received before September 15, 1963. Individuals seeking to qualify under (a), (b), or (c) must also have successfully completed the prescribed curriculum in an accredited school of medical technology, *and* must have at least 3 years of general clinical laboratory experience in producing test results. A 1-year internship included as a part of a medical technology curriculum may be counted as 1 year of general clinical laboratory experience in producing test results.

G. A person with at least 90 semester hours (or equivalent trimester or quarter hours) leading to a bachelor's degree in the clinical laboratory sciences, who has completed coursework *in the specialty* equivalent to the coursework provided in an accredited bachelor's level medical technologist curriculum and who has at least 2 years of clinical laboratory experience, acquired after the coursework was completed, in producing test results in the specialty. An individual qualified as a technical supervisor in the designated specialty shall attest, in writing, to the years of experience.

H. A person with at least 10 years of clinical laboratory experience in producing test results *in the designated specialty*, provided that at least 3 years of that experience has been at the supervisory level in an approved clinical laboratory and has been obtained during the 5-year period preceding the effective date of these regulations. An individual qualified as a technical supervisor in the designated specialty shall attest, in writing, to the years of experience.

I. A person who passes a properly benchmarked and validated competency examination in that specialty. This examination is to be developed by or for the Secretary. The benchmark for a specialty will be based on the coursework in an accredited bachelor's level medical technologist curriculum and 3 years' experience in producing test results in the specialty. A person must have 3 years' experience in producing test results in a specialty to be eligible to take this examination.

J. A person who has successfully completed at least 60 semester hours (or equivalent trimester or quarter hours) *and* 12 months of training in an accredited school of cytotechnology *or* 6 months of formal training in such a school plus 6 months of full-time training in diagnostic cytology under a board-certified (anatomical) pathologist; *and* who has at least 4 years of experience as a cytotechnologist.

K. A person qualified under HEW regulations as a supervisory cytotechnologist before the effective date of these regulations.

§ 74.35 Qualifications of Technologists and Cytotechnologists.

(a) *Standard: Technologists and Cytotechnologists—Duties.* The clinical laboratory technologists or cytotechnologists may perform tests requiring the exercise of independent judgment and responsibility only in those specialties in which the laboratory technologist or cytotechnologist is qualified by education, training, and experience. The required competency is attested to in writing by an individual designated as the technical supervisor in those specialties.

(b) *Standard: Technologists—Qualifications.* The technical supervisor determines that each clinical laboratory technologist qualifies under one of the following provisions:

(1) A person with a bachelor's degree in medical technology, *or* 90 semester hours (or equivalent trimester or quarter hours), *or* (60 semester hours (or equivalent trimester or quarter hours) received before September 15, 1963, *and* who successfully completed the prescribed curriculum in an accredited school of medical technology may serve as a technologist in any specialty (except the pathology specialties).

(2) A person with at least 90 semester hours (or equivalent trimester or quarter hours) leading to a bachelor's degree in the clinical laboratory sciences, who has completed coursework in the specialty equivalent to the coursework provided in an accredited bachelor's level medical technologist curriculum, may serve as a technologist in that specialty.

(3) A person who, before the effective date of these regulations, qualified as a technologist under HEW regulations; or, persons who passed the HEW examination developed by the Professional Examination Service for technologists, may continue to serve as a technologist.

(4) A person who has had 3 years of experience in a clinical laboratory in producing test results from the test systems in use for a specialty, may serve as a technologist, in that specialty, if the designated technical supervisor in that laboratory attests in writing that the person is competent to exercise independent judgment in operating the test systems in use in the specialty. (This provision may be used to qualify a person in any specialty in which the laboratory provides services except the pathology specialties.)

(c) *Standard: Cytotechnologist—Qualifications.* The technical supervisor determines that each clinical laboratory cytotechnologist qualifies under one of the following provisions:

(1) A person who successfully completed at least 60 semester hours, (or equivalent trimester or quarter hours), and (a) successfully completed 12 months of training in an accredited school of cytotechnology, or (b) 6 months of acceptable full-time training in diagnostic cytology under a board-certified (anatomical) pathologist may serve as a cytotechnologist.

(2) A person who qualified under HEW regulations as a cytotechnologist before the effective date of these regulations including individuals who qualifies as cytotechnologists as a result of passing the HEW examination developed by the Professional Examination Service, may continue to serve as a cytotechnologist.

[FR Doc. 79-31647 Filed 10-11-79; 8:45 am]

BILLING CODE 4110-86-M

DEPARTMENT OF COMMERCE

Maritime Administration

46 CFR Part 283

Conservative Dividend Policy, Amendment of Standard for Dividend Declarations

AGENCY: Maritime Administration.

ACTION: Proposed Rule Making—Extension of time for comments.

SUMMARY: On July 18, 1979, Notice was published in the **Federal Register** (44 FR 41854), that the Maritime Subsidy Board (Board), Maritime Administration, proposes to amend 46 CFR Part 283, Conservative Dividend Policy, to change the financial requirements which an operator of vessels receiving operating-differential subsidy must satisfy before declaring a devidend. On September 21, 1979 Notice was published (44 FR 54734) of an extension of time to submit comments on such proposed policy to October 17, 1979.

DATE: Notice is hereby given that the closing date of this notice has been further extended to November 16, 1979.

ADDRESS: Comments from any interested person desiring to offer views and comments thereon for consideration by the Board should be submitted in writing, with 15 copies, by close of business November 16, 1979, to the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th & E Streets, NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Murry A. Bloom (202) 377-2188.

So ordered by the Maritime Subsidy Board, Maritime Administration.

Dated: October 9, 1979.

Robert J. Patton, Jr.,

Secretary, Maritime Subsidy Board, Maritime Administration.

[FR Doc. 79-31650 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-15-M

46 CFR Part 355

Requirements for Establishing U.S. Citizenship

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Proposed Regulation.

SUMMARY: The Maritime Administration proposes to amend its regulations relating to the requirements for establishing United States citizenship (within the meaning of Section 2 of the Shipping Act, 1916, as amended (46 U.S.C. 802)) for corporations and other entities. In order to be eligible to participate in the various benefit programs provided for under the Merchant Marine Act, 1936, as amended ("1936 Act"), i.e., operating-differential subsidy, construction-differential subsidy and ship financing guarantees, applicants and specified other interested parties, including corporate entities, must establish United States citizenship. Included are bareboat charterers and shipowners, as well as owner participants and owner trustees in lease transactions, and other parties deemed to have a legal or beneficial interest in vessels constructed under the various benefit programs.

COMMENT DATE: Written comments by interested persons must be received by December 11, 1979.

ADDRESS: Send the original and 5 copies of comments to the Secretary, Maritime Administration, Washington, D.C. 20230. All comments will be made available for inspection during normal business hours in Room 3099B, Department of Commerce, 14th & E Streets, NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Doris Lansberry, Office of the General Counsel, Maritime Administration, Washington, D.C. 20230, telephone (202) 377-2506.

SUPPLEMENTARY INFORMATION: One of the proposed amendments involves the "fair inference" rule which was derived from the judicial decision in *Collier Advertising Service, Inc.* v. *Hudson River Day Line,* 14 Fed. Supp. 335 (1937). The Court held that since the corporate mortgagee in that case could show that 96 percent of its stock was held by persons with registered United States addresses, it was fair to infer that at least 75 percent of the stock was owned

by citizens of the United States. The "fair inference" rule was adopted by this Agency after the *Collier* case as a practical manner by which publicly-held corporations could establish United States citizenship. For corporations owning and operating vessels in the United States coastwise trade, the percentage of stock required to be held by persons having registered United States addresses, under the "fair inference" rule, is presently 95 percent. However, it is now proposed that this percentage be reduced to 90 percent. The agency proposes no change in the present "fair inference" requirement for foreign trade.

The second proposed amendment requires that a majority of the number of persons on any committee authorized to act on behalf of the Board of Directors must be United States citizens. This recognizes the growing trend for corporate boards of directors to delegate significant decision-making authority to committees (often titled Executive Committees). This is in addition to the statutory requirement that a majority of the number of directors necessary to constitute a quorum must be United States citizens. With respect to a corporation receiving operating-differential subsidy, *all* directors must be United States citizens.

The Agency also proposes to add two new sections to Part 355. One concerns Agency discretion to accept alternative methods of proof of United States citizenship, and the other is a Freedom of Information Act ("FOIA") section. The Agency presently uses two methods of proof for determining United States citizenship: (1) direct proof for small corporations, and (2) the "fair inference" rule for publicly-held corporations. As in the past, the Agency shall exercise discretion in accepting alternative methods to prove United States citizenship. However, there presently is no notice to the public that this option is available. The proposed amendment concerning FOIA is to inform the public that the documents filed in support of establishing United States citizenship become subject to automatic release pursuant to an FOIA request, unless the documents are marked "confidential" and the basis for claim of exemption is also submitted at the time of filing with the Agency.

A determination has been made that the proposed amendments to 46 CFR 355 do not require a regulatory analysis under the criteria established pursuant to Executive Order 12044 (43 CFR 12661) and implementing procedures of the Department of Commerce and the Maritime Administration (44 FR 2082).

Accordingly, Part 355 of Title 46 of the Code of Federal Regulations is proposed to be amended as follows:

(1) by deleting the phrase "95 percent" and inserting, in lieu thereof, "90 percent" wherever it appears in this Part;

(2) by amending Section 355.2 as follows:

§ 355.2 [Amended]

(a) by deleting the reference "(a)" in the first paragraph; and

(b) by revising paragraph 3 of the Affidavit of citizenship to read as follows:

3. That the names of the (a) President or other Chief Executive Officer, (b) Vice President or other individuals who are authorized pursuant to the Bylaws to act in the absence or disability of the President or other Chief Executive Officer, (c) Chairman of the Board, and (d) Directors are as set forth below:
Name of Officer Director _____
Title _____
Date and place of birth _____
and that each of said individuals is a citizen of the United States pursuant to applicable law.

That the Bylaws of the Corporation provide that directors are necessary to constitute a quorum. There is no more than a minority of this number of directors necessary to constitute a quorum who are non-U.S. citizens (IN THE CASE OF CORPORATIONS RECEIVING OPERATING-DIFFERENTIAL SUBSIDY PURSUANT TO TITLE VI OF THE MERCHANT MARINE ACT, 1936, AS AMENDED, ALL DIRECTORS MUST BE U.S. CITIZENS), and

That the majority of the membership of any committee authorized under the Bylaws of the Corporation to act on behalf of the Board of Directors are citizens of the United States pursuant to applicable law.

(3) by adding new Sections 335.6 and 335.7 to read as follows:

§ 355.6 Agency discretion.

In lieu of the direct proof or fair inference methods of establishing citizenship, special instructions for an alternative method of proof may be requested. However, acceptance of any alternative method of proof of U.S. citizenship lies entirely within the discretion of the Maritime Administration.

§ 355.7 Confidential information.

If the affidavit, including supplemental affidavits and support documents submitted to the Agency, contains information which the submitting party considers to be trade secrets or commercial or financial information and privileged or confidential, or otherwise exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552), the submitting party shall assert a claim of exemption at the time of filing. The same requirement shall apply to any supplemental affidavit or amendment to the affidavit. If no claim of exemption is made when the affidavit and/or support documents are filed, the Maritime Administration shall not oppose any request subsequently made for disclosure, pursuant to the Freedom of Information Act (FOIA), of any information contained in the affidavit and support documents. The Secretary, Maritime Administration, shall make a determination as to any claim of exemption made by the submitting party.

Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)), sec. 2, Shipping Act, 1916, as amended (46 U.S.C. 802); Reorganization Plans No. 21 of 1950 (64 Stat. 1273), and No. 7 of 1961 (75 Stat. 840), as amended by Pub. L. 91-469 (84 Stat. 1036); and Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973).

Dated: October 5, 1979.

By Order of the Assistant Secretary for Maritime Affairs, Maritime Administration.

Robert J. Patton, Jr.

Secretary, Maritime Administration.

[FR Doc. 79-31493 Filed 10-11-79; 8:45 am]
BILLING CODE 3510-15-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 21

[CC Docket No. 79-259; FCC 79-594]

Modifying Individual Radio Licensing Procedures in the Domestic Public Radio Services; Proposed Rule Making

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: The FCC is proposing to deregulate one area of the Domestic Public Land Mobile Radio Service by eliminating the licensing of individual land mobile radio stations. Licensing of individual aeronautical mobile stations will be retained. It is anticipated that the number of individual land mobile radio stations will increase dramatically in the very near future. The proposed deregulation will ease the regulatory burden on the public and still permit the Commission to enforce its regulations.

DATES: Comments must be received on or before November 19, 1979, and Reply Comments must be received on or before December 19, 1979.

ADDRESSES: Send Comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Michael A. Menius, Common Carrier Bureau, (202) 632-6450.

SUPPLEMENTARY INFORMATION:

Adopted: September 27, 1979.

Released: October 9, 1979.

By the Commission: Chairman Ferris issuing a separate statement; Commissioner Lee absent.

In the Matter of Amendment of Sections of Part 21 of the Commission's Rules to modify individual radio licensing procedures in the Domestic Public Radio Services CC Docket No. 79-259.

1. In keeping with the Commission's ongoing policy of simplifying its licensing procedures where appropriate and easing the administrative burden on the public, we propose to amend our rules to eliminate the current procedure whereby individual mobile radio licenses are issued within the Common Carrier Bureau's Domestic Public Land Mobile Radio Services (DPLMRS). "DPLMRS" refers to both voice and signalling communications between base stations and mobile units (in vehicles or hand-carried) offered by common carriers. This Notice deals with mobile telephone service (two-way voice communications) and does not pertain to paging (one-way signalling communications).[1]

2. The Commission's rules provide that authorizations for base stations may be issued only to communications common carriers. Authorizations for mobile stations (i.e., the subscribers' equipment), however, "* * * will be issued to communications common carriers *or to individual users of the service.*" Rules § 21.500 (emphasis supplied). Under the Commission's present rules, individual subscribers may obtain mobile radiotelephone service under either of two licensing schemes. First, the Rules permit individual subscribers to operate under the blanket authorization [2] issued to the carrier; or second, individual subscribers may apply for an individual mobile radio license which refers specifically to the subscriber's mobile unit. In order to obtain such an individual mobile radio license, the subscriber is required to obtain a letter of intent from the carrier in the subscriber's primary area of operations. The letter must state the carrier's willingness to provide service to the subscriber and must indicate the number of mobile units, frequencies, and point of registry (as well as other areas to be served, if any). The individual subscriber then submits an application to the Commission and attaches the letter of intent. These forms are processed by the Commission's staff, and an individual radio license is issued to the qualified applicant. The basis for this licensing procedure appears to be related to the practice of subscribers' furnishing their own mobile units instead of obtaining them from the carrier. The customer owned and maintained equipment (COAM) or customer provided equipment (CPE) appears to have given the carriers some concern about their ability to comply with the Commission's rules regarding responsibility for technical operation (Subpart D) and for operational control (§ 21.514). This has led to the present situation in which most wireline common carriers and some radio common carriers require individual subscribers who furnish their own equipment to first obtain an individual mobile radio license prior to being provided service from the carrier. Other carriers do not require individual licensing and provide service to all subscribers (including those furnishing their own equipment) under the carrier's blanket authorization.[3] If a carrier requires the subscribers who furnish their own equipment to obtain individual licenses, then these subscribers must wait for their respective licenses before they can receive communications service. The waiting period does not apply to other subscribers who rent equipment from the carrier. The waiting period depends in part on the rate at which the Commission staff can process these applications.

3. The Commission currently receives and processes approximately 14,000 Individual Mobile applications per year. The current speed of processing is approximately three weeks from receipt of the application to mailing of the authorization but has been as low as one week and as long as 12 weeks.

4. As of May 1979, there were 33,253 individual land mobile and 5,122 individual aeronautical stations (call signs) authorized. As recently as four years ago the annual rate of applications received was 6,000 per year. The rate of growth of individual mobile licensing has been spurred by the growth in demand for mobile services, the advent of more efficient equipment associated with such service, and marketing efforts of radio equipment manufacturers. The person buying a mobile telephone unit frequently signs the equipment order and the application for license. The salesman then forwards the application, although not always immediately, to the Commission. The customer's unit may thus reach him before he receives his authorization if the staff's backlog exceeds three to four weeks. These delays serve little useful purpose, since applications are routinely granted without lengthy review as soon as required forms are properly submitted.[4]

5. Our concerns for the future are based not only on the healthy growth of individual applications on existing frequencies but, to an even greater extent, on the prospect of cellular system implementation[5] where we foresee hundreds of thousands of mobile telephone subscribers, many of whom will have customer provided equipment. As the number of individual applications increases, we anticipate substantial increases in the applicant's waiting period, unless the Commission devotes more and more personnel to a task which, as indicated, serves little or no public interest. In order to eliminate these delays, we propose to amend our procedures to eliminate individual land mobile radio licensing; i.e., we propose to modify our rules so that all subscribers to land mobile radiotelephone service, regardless of whether they furnish their own equipment, will be served under the carrier's blanket authorization.[6] All individuals who request service from a local carrier will thus be able to receive service as soon as the carrier is able to accommodate the individual on the carrier's system. We believe these changes will permit better use of the Commission's resources. Staff members who process individual applications can be reassigned to more pressing matters which require closer scrutiny than do

[1] The Commission does not issue individual licenses for paging receivers.

[2] An authorization is issued to a carrier for the base station and a specified number of mobile stations. Mobile units receiving service from that carrier operate under the carrier's authority or "blanket" without obtaining an individual license; i.e., the individual mobile units are authorized to operate under the blanket authority of the carrier.

[3] In a small number of cases, carriers in their discretion provide both options to individual applicants. This is not the situation in the majority of cases.

[4] The applicant is not required to demonstrate that he or she is financially or otherwise qualified to be an individual radio licensee; there is no basis for competing applications, thus no hearings, etc.

[5] In 1975, in Docket 18262, the Commission allocated spectrum for development of cellular communications systems. Developmental systems are now in progress. Technical rules and standards for these systems are being developed in Rule Making 3200.

[6] This licensing procedure complies with Article 18, International Radio Regulations, which provides, "No transmitting station may be established or operated * * * without a license issued by the government of the country to which the station in question is subject;" and Article 23, which requires that radiotelephone stations be under the control of an operator "holding a certificate issued or recognized by the government * * *."

individual applications, which are processed in a fairly routine manner. The proposed changes will also ensure that CPE subscribers are not placed at a disadvantage in promptly obtaining service from carriers.

6. The Commission will retain jurisdiction to investigate complaints of any improper activities since the carriers will continue to be licensed. The Commission possesses adequate enforcement authority over subscribers pursuant to Sections 302, 312, and 503 of the Communications Act of 1934, as amended. We also propose to amend our rules to place the responsibility for the proper installation and maintenance of mobile units on the party furnishing the mobile units. We propose to require that subscribers who furnish their equipment have it regularly inspected and maintained and to require that they be able to provide evidence of such to the carrier at such times as the Rules specify. We believe these measures will properly assign the burdens of responsibiity to the subscriber and carrier and will assure that the Commission retains jurisdiction to enforce its regulations. The carriers will be relieved of the burden of issuing letters of intent.

7. We do not propose, at this time, to eliminate licensing of the 5,000 plus individual aeronautical mobile stations but intend to retain the present licensing procedures for these mobile stations. All aeronautical mobile units are furnished by the subscriber; additionally aeronautical mobile station licensees are roamers, i.e., are not primarily associated with the service area of a particular carrier. Aeronautical mobile stations, located on board airplanes, typically receive air-ground sevice from a number of carriers, depending upon the states and locales across which the airplanes fly. Individual aeronautical subscribers are not billed directly by these various carriers. Instead, the subscriber contacts a local wireline carrier who agrees to act as a billing agent for any carrier who provides air-ground service to the individual aeronautical subscriber. Thus, the aeronautical subscriber is not associated with the license of a single carrier such as is the case with individual land mobile subscribers. Eliminating licensing of individual aeronautical mobile stations would remove the necessary regulatory link between the Commission and the subscriber. Thus it is necessary to retain individual aeronautical mobile licensing in order to assure that these subscribers operate their communications systems in compliance with Commission regulations.

8. We invite comments and reply comments on the amendments as proposed in the Appendix, and on the points we have discussed.

9. Authority for the adoption of the amendments proposed herein is contained in sections 1, 4(i), 4(j), 303(g), and 303(r) of the Communications Act of 1934, as amended.

10. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before November 19, 1979, and reply comments on or before December 19, 1979. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

11. Copies of comments, reply comments, and other documents shall be furnished the Commission in accordance with section 1.419 of the Rules. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room located at 1919 "M" Street, NW, Washington, DC. The proposal may be changed in light of the comments received.

12. Sections 21.9(c)(2) and (e), 21.15(i)(3), 21.500, and 21.514 of the Commission's rules make reference to the current individual radio licensing procedure. It is proposed to amend these sections as indicated in the Appendix below to delete the licensing requirement and related procedures.

Federal Communications Commission [1]

William J. Tricarico,

Secretary.

Appendix

1. Section 21.9 is amended by deleting and reserving §§ 21.9(c)(2) and 21.9(e) as follows:

§ 21.9 Standard application forms for Domestic Public Land Mobile Radio, Rural Radio and Offshore Radio Telecommunications Services.

* * * * *

(c) License for mobile station. Since no construction permits are issued for mobile stations, applications shall be filed directly for license, subject to the following:

(1) Authority for a base station licensee to serve land mobile or airborne units to be licensed in the name of the carrier may be requested on the FCC Form 401 for the base station construction permit, except that additional mobile units for a licensed station may be applied for on FCC Form 403 as provided for in paragraph (d) of this section. The information should clearly specify the maximum number of mobile units to be placed in operation within the license period.

(2) [Reserved]

(d) Modification of station license not requiring a construction permit.—Prior to the expiration of a license, an FCC Form 403 may be filed to request authority to make only those categories of changes to an existing station as listed below:

(1) Increase in number of mobile units;

(2) Change of control point (beyond the boundary of the city, borough, town, or community where the control point is authorized);

(3) Additional control points;

(4) new dispatching agreement;

(5) Authority to service vessels;

(6) Certain waiver requests, namely §§ 21.118(d)(2); 21.205(h)(3); 21.208(g)(2);

(7) Change in or additional emission;

(8) Request to delete or change antenna obstruction markings;

(9) Change in points of communications (Rural Radio Service);

(10) Correction of coordinates;

(11) Change of an authorized frequency; or

(12) Addition of frequencies for mobile transmitters.

(e) [Reserved]

(f) Authorization to operate U.S. mobile units in Canada. A mobile station operating in accordance with the Commission's licensing requirements may obtain authority to operate in Canada upon filing an application ("Application for Registration for Radio Station Licensee of U.S.A.") with the Director, Telecommunications Regulation Branch, Department of Communications, Ottawa, Ontario, Canada.

2. Section 21.15 is amended by deleting and reserving § 21.15(i)(3) as follows:

§ 21.15 Technical content of application.

* * * * *

(i) In the Domestic Public Land Mobile Radio Service each application shall contain, as appropriate, the following information:

(1) Each application for construction permit for base station which proposes

[1] See attached Separate Statement of Chairman Ferris.

to establish a new communication facility, make changes in area of coverage of a station already authorized, or install additional transmitters shall describe the antenna transmission line type, length and radio frequency power transmission losses, together with a description and power loss of all other devices in addition to the transmission line, between the output of the transmitter and the antenna radiating system expressed in decibels.

(2) All applications for new or additional facilities shall identify any other pending applications in this service for new or additional facilities for the same general geographic area that applicant or any principal thereof may be a party to or have an interest in, either directly or indirectly.

(3) [Reserved]

3. Section 21.500 is amended to read as follows:

§ 21.500 Eligibility.

Authorizations for base stations, mobile stations on land or on board vessels, and auxiliary test stations to be operated in this service will be issued to existing and proposed communication common carriers. Authorizations for aeronautical mobile stations will be issued to individual users of the service. Applications will be granted only in cases where it is shown that (a) (in the case of base stations) the applicant is legally, financially, technically, and otherwise qualified to render the proposed service, (b) (in the case of base stations) there are frequencies available to enable the applicant to render a satisfactory service, and (c) the public interest, convenience, or necessity would be served by a grant thereof.

4. Section 21.514 is amended by revising § 21.514(a) as follows:

§ 21.514 Responsibility for operational control and maintenance of mobile units.

(a) In the case of land mobile communications the licensee of a base station in this service shall be responsible for exercising effective operational control over all mobile units with which it communicates. The proper installation and maintenance of such mobile units shall be the responsibility of the person furnishing the mobile units. Land mobile base station licensees may require, at the time when subscribers request service and at periods specified in the rules, that subscribers furnish the serving carrier evidence that the mobile unit equipment has been inspected in compliance with the provisions of the Commission's rules. In the event that a subscriber fails to provide such certification, the serving carrier is authorized to refuse or suspend service to the subscriber, in accordance with any applicable local requirements for timely notification.

* * * * *

Separate Statement of Charles D. Ferris, Chairman

Re Amendment of Sections of Part 21 to Deregulate Licensing of Individual Mobile Radios and Recodification of Part 21 to create a new Part 22 and a revised Part 21

Our actions today on these two items relating to Part 21 of the Commission's rules mark another step in out effort to make FCC regulation meaningful by making our regulations more efficient and more understandable to those members of the public that are expected to follow them.

By substantially deregulating the licensing of individuals owning mobile land radios we will eliminate a process that is unnecessarily time consuming for those seeking licenses as well as for the FCC. At the same time we will insure continuing responsibility from those common carrier radio licensees who will become responsible for those individuals with their own equipment operating under the carriers' FCC granted authority. From our perspective this is particularly important, because it will release the energies of staff assigned to these routine processing duties to meet the demands of more pressing efforts underway in our Common Carrier Bureau.

Our second action eliminates the confusion that stems from placing diverse common carrier radio service regulations within the same part of our rules. By separating these functions in the Rules, we will reflect the reality that they are separate functions in fact. Moreover, as we move toward revising and updating both areas of the Rules in the near future, we will by this action greatly simplify the task of commenting on our upcoming proposals.

Together, these two items underscore our commitment to insure that our regulatory efforts will be constantly reevaluated, and that we will change when doing things differently means doing things better.

[FR Doc. 79-31577 Filed 10-11-79; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 44, No. 199
Friday, October 12, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Judicial Review; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States, to be held at 2:30 p.m., Wednesday, October 31, 1979, in the seventh floor main Conference Room of Covington and Burling, 888 16th Street, N.W., Washington, D.C.

The Committee will meet to discuss a draft of a report discussing the ramifications of proposed legislation (the "Bumpers Amendment") that amends the Administrative Procedure Act, 5 U.S.C. 706.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance of the meeting. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information, contact Linda Sedivec (202–254–7065). Minutes of the meeting will be available on request.

Richard K. Berg,

Executive Secretary.

October 9, 1979.

[FR Doc. 79-31598 Filed 10-11-79; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Modoc Grazing Advisory Board; Cancelled Meeting

The Modoc National Forest Grazing Advisory Board meeting set October 30, 1979 is hereby cancelled. The meeting will be rescheduled at a later date.

October 2, 1979.

G. Lynn Sprague,

Forest Supervisor.

[FR Doc. 79-31529 Filed 10-11-79; 8:45 am]

BILLING CODE 3410-11-M

Land and Resource Management Plan; Stanislaus National Forest; Alpine, Calaveras, Mariposa, and Tuolumne Counties, Calif.; Intent To Prepare an Environmental Impact Statement

The USDA-Forest Service will prepare an environmental impact statement for the forest plan for the Stanislaus National Forest.

This forest plan is one of eigtheen currently being developed in the Pacific Southwest Region. The development of these several forest plans and the regional plan is starting simultaneouly in order to facilitate the identification of issues to be addressed. Forest planning will be completed after adoption of a regional plan.

This forest plan will provide policy and program direction for all National Forest System lands under the administration of the Forest Supervisor.

The Forest Plan will:

(a) Briefly describe the major public issues and management concerns,

(b) Briefly describe the lands and resources of the Stanislaus National Forest,

(c) Identify the goals and objectives of management,

(d) Describe the expected types and amounts of goods, services, or uses—by decades,

(e) Identify the proposed vicinity, timing, standards, and guidelines for proposed and probable management activities,

(f) Identify monitoring and evaluation criteria,

(g) Refer to information used in plan development, and

(h) Identify the persons who participated in the development of the plan, including a summary of their qualifications. The issues expected to be discussed in the development of this plan include but are not limited to:

(a) The kinds and amounts of goods, the services to be produced, and the uses to be permitted on the National Forest System lands,

(b) The public costs of providing these goods and services, and

(c) The physical, biological, economic and social effects associated with the production of goods and services.

The Forest Plan will be selected from a range of alternatives which will include at least:

(a) A "no-action" alternative which represents continuation of the present management direction,

(b) One or more alternatives formulated to respond to major public issues and management concerns,

(c) An alternative that responds to the Forest's allocation of goods and services that are in the RPA program selected by the President and Congress.

As an early step in the planning, Federal, State, and local agencies, organizations, and individuals who may be interested in, or affected by, the adopted plan, will be invited to participate in:

(a) Identification of the issues to be addressed,

(b) Identification of those issues to be analyzed in depth, and

(c) Elimination from detailed study those issues which are not significant, or which have been covered by prior environmental review, or are not within the scope of this Forest Plan.

To accomplish this, public meetings will be held:

November 5, 1979: Sacramento Community/ Convention Center, 1100–14th Street, Sacramento, CA. 1:30 P.M. to 4:00 P.M. and 7:30 P.M. to 9:30 P.M.

November 13, 1979: Stanislaus County, Center #3 Auditorium, Corner Old Oakdale Rd. and Scenic Drive, Modesto, CA. 1:30 P.M. to 4:00 P.M. and 7:30 P.M. to 9:30 P.M.

November 15, 1979: Stanislaus Forest, Headquarters, 19777 Greenley Rd., Sonora, CA. 1:30 P.M. to 4:00 P.M. and 7:30 P.M. to 9:30 P.M.

November 27, 1979; Pioneer Inn, Convention Room, 221 South Virginia, Reno, NV. 1:30 P.M. to 4:00 P.M. and 7:30 P.M. to 9:30 P.M.

November 29, 1979: Calaveras County Water District Offices, 427 St. Charles St., San Andreas, CA. 1:30 P.M. to 4:00 P.M. and 7:30 P.M. to 9:30 P.M.

Written comments and suggestions about these items are encouraged. To be most useful, they should be received by the Forest Supervisor before January 7, 1980.

The kind of additional public participation opportunities has not yet been determined. It will vary as the planning progresses and will be responsive to issues and concerns identified during the meetings listed above.

The estimated date for distribution of the draft environmental impact statement is July 1982. Following a three month public review period, a final environmental impact statement will be prepared and distributed in approximately April 1983.

For further information about the planning project, or the availability of the environmental impact statements, or other documents relevant to the planning process, contact:

John E. Tonnesen, Stanislaus National Forest, 19777 Greenley Road, Sonora, CA 95370, (209) 532-3617.

John W. Chaffin,

Acting Regional Forester, Pacific Southwest Region.

October 5, 1979.

[FR Doc. 79-31557 Filed 10-11-79; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Basin Electric Power Cooperative; Final Environmental Impact Statement

Notice is hereby given that the **Federal Register** Notice published September 25, 1979, announcing that the Rural Electrification Administration has prepared a Final Environmental Impact Statement with inputs from the Department of Energy in accordance with section 102(2)(c) of the National Environmental Policy Act of 1969 in connection with proposed applications from Basin Electric Power Cooperative to finance, construct, and operate transmission facilities to be located in Burke, Divide, Williams, Mountrail, and Ward Counties, North Dakota, should be amended as to the extent of changing Mr. James M. Brown's address and telephone number to read as follows: "System Reliability and Emergency Response Branch, Economic Regulatory Administration, Department of Energy, Room 4110, 2000 M Street, SW., Washington, D.C. 20461, telephone number (202) 254-8247" instead of "System Reliability and Emergency Response Branch, Economic Regulatory Administration, Department of Energy, Room 4070, Vanguard Building, Washington, D.C. 20461, telephone number (202) 254-8247."

Dated at Washington, D.C. this 28th day of September 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79-31332 Filed 10-11-79; 8:45 am]

BILLING CODE 3410-15-M

Cajun Electric Cooperative, Inc.; Notice of Intent To Prepare Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration (REA) intends to prepare a Draft Environmental Impact Statement (DEIS) in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with a proposed application for financing assistance from Cajun Electric Power Cooperative, Inc. (Cajun), P.O. Box 576, New Roads, Louisiana 70760.

The DEIS will address the proposed financing of a 540 MW lignite-fired electric generating unit proposed for completion in 1985 and for location in the State of Louisiana. The project would include the generating unit with associated equipment, lignite surface mine, and transmission facilities. On June 21, 1979, a public information meeting concerning the proposed project was held in Coushatta, Louisiana. Notice of that meeting was issued locally and the meeting was attended by some 60 people. All interested persons are invited to submit comments which may be helpful to REA in preparing the DEIS. Comments should be sent to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, with a copy to Cajun whose mailing address is given above. Additional information may also be obtained at the offices of Cajun, Highway 1, New Roads, Louisiana, telephone (504) 638-6326.

Any financing assistance which REA may provide pursuant to the proposed facilities will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects, and final action will be taken only after compliance with section 102(2)(C) of the National Environmental Policy Act of 1969, and other environmental statutes, regulations, Executive Orders and Secretary's Memoranda, normally considered by REA.

Dated at Washington, D.C., this 28th day of September 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79-31331 Filed 10-11-79; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

University of Florida; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666—11th Street NW. (Room 735) Washington, D.C.

Docket No.: 79-00271. Applicant: University of Florida—College of Pharmacy, Box J-4, JHMHC, Gainesville, Fla. 32610. Article: Dianorm R-4—Equilibrium Dialysis Apparatus and Accessories. Manufacturer: Diachema AG, Switzerland. Intended use of article: The article is intended to be used for studies of enzymes, proteins and nucleic acids. The quantitative aspects of the interaction of the macromolecules will be investigated, as a function of concentration, pH, ionic strength, etc. The objectives of the investigations are to understand the mechanism of binding of the drugs to the molecules and to correlate the observations with in vivo data obtained from animals and humans. The article will also be used by graduate students, satisfying the research requirements for their Ph. D. degree and by post doctoral fellows in their research program.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article does not absorb drugs on its membranes or on surfaces of its dialysis cells. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated September 13, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purposes and

(2) it knows of no domestic instrument of apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-31521 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-25-M

New Mexico State University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No.: 79-00253. Applicant: New Mexico State University, Box 3D, Physics Department, Las Cruces, NM 88003. Article: Magnet and Optical System. Manufacturer: Leybold-Heraus, West Germany. Intended use of article: The article is intended to be used to demonstrate an effect that occurs in the spectra of atoms called the Zeeman effect. The Zeeman effect equipment will be used for one of the experiments physics students perform when studying the optical spectra of the elements.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability to demonstrate the Zeeman effect in the spectra of atoms. The National Bureau of Standards Advises in its memorandum dated September 5, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-31522 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-25-M

University of Texas Health Science Center and Medical College of Ohio; Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. at 666-11th Street, NW. (Room 735), Washington, D.C.

Docket No.: 79-00291. Applicant: The University of Texas Health Science Center at San Antonio, 7703 Floyd Curl Drive, San Antonio, Texas 78284. Article: LKB Ultrotome IV 2128-010 Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of tumors, renal biopsies, tissue culture cells (smooth muscle) and endothelial and aortic tissue. Investigations include ultrastructural studies of normal and explorative and pathologic animal tissue. Investigations will be conducted with the objectives of understanding the early pathological alterations in cells, tissue, organs, using animals as models, and to correlate the changes with clinical data seen in human diseased tissues. In addition, the article will be used in the training and teaching of senior resident physicians in the basic of microtome and microscope operations. Application received by Commissioner of Customs: June 12, 1979. Advice submitted by the Department of Health, Education, and Welfare: September 13, 1979. Article ordered: March 30, 1979.

Docket No.: 79-00308. Applicant: Medical College of Ohio—Department of Pathology, C.S. 10008, Toledo, Ohio 43699. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and Accessories. Manufactured: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigations of animal tissues (kidney, muscle, tumors, etc.) which hopefully will further basic knowledge on cell and tissue ultrastructure of disease processes and provide a correlation with and better understanding of human ultrastructural pathology. The article will also be used in the course Diagnostic Electron Microscopy which involves the study, general principles and techniques of electron microscopy (involving ultramicrotomy), and the use of the electron microscope to study cellular ultrastructure and pathologic alterations. In addition, the article will be used as a learning base for various faculty, residents, and graduate students in the Department of the Pathology and occasionally from other clinical departments in the School of Medicine. Application received by Commissioner of Customs: June 12, 1979. Advice submitted by the Department of Health, Education, and Welfare: September 13, 1979. Article ordered: August 31, 1978.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each of the foreign articles provides a range of cutting speeds 0.1 to 50 millimeters per second. The MT/5000 ultramicrotome manufactured domestically by the DuPont/Sorvall Division of the DuPont Company (Sorvall) became available on April 24, 1979. The MT/5000 has a cutting speed range of 0.1 to 38 mm/sec. However, at the time the foreign articles were ordered, the most closely comparable domestic instrument was Sorvall's Model MT-2B ultramicrotome. The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are petinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments. We, therefore, find that the Sorvall Model MT-2B ultramicrotome was not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended

to be used at the time the articles were ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-31523 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-25-M

Case Western Reserve University; Consolidated Decision on Applications for Duty Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially § 301.11(e).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666 11th Street NW. (Room 735), Washington, D.C.

Docket No.: 79-00303. Applicant: Case Western Reserve University, 2040 Adelbert Road, Cleveland, Ohio 44106. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for the study of (1) thin sections of plastic embedded bio-medical specimens, (2) cell fractions of cells that are negatively stained and (3) freeze-fracture preparations. The various research projects will involve specimens from regenerating newt limbs and spinal cords, growing tips of regenerating axons, cultures of developing skeletal and cardiac muscle cells, and retina of developing eyes, intestinal epithelium used for transport studies, isolated ribosomes and nucleoli from developing frog embryos, hormonally treated chicken livers, neurofilaments and microtubules from axons, and neuromuscular junctions. In addition, the article will be used in the course Anatomy 495. Practical Electron Microscopy to familiarize the students with techniques in electron microscopy and interpretation of information obtained from electron micrographs. Article ordered: February 21, 1979.

Docket No.: 79-00304. Applicant: Medical University of South Carolina—Department of Anatomy, 171 Ashley Street, Charleston, SC 29403. Article: Electron Microscope, Model JEM 100S with Sheet Film Camera and Eucentric Side Entry Goniometer and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The aritlce is intended to be used to examine the central nervous system of experimental animals, mainly rats. The general objectives of this work are to study (a) the normal development of neural connections and how this can be upset by injury, (b) the patterns of connections of certain brain regions with particular emphasis on the transmitters involved, (c) antigens which are of developmental significance in the nervous system. The article will be used as an educational tool for graduate students post-doctoral students and visiting scientists. Article ordered: May 10, 1979.

Docket No. 79-00316. Applicant: Mt. Sinai School of Medicine of the City University of New York, 1 Gustave L. Levy Place, New York, NY 10029. Article: electron Microscope, Model JEM 100CX and Accessories. Manufacturer: Jeol Ltd., Japan. Intended use of Article: The article is intended to be used for the study of the structure of biological cells and tissues; including respiratory tissues and the phenomena associated with respiratory diseases; the supramolecular structure of secretory and ciliated cells; the organization of myoid filaments and proteins at the apical ends of ciliated cells; the interaction of these filaments and proteins with one another assessed by tilting the specimen and constructing stereo pairs; the structure of elastin and collagen in the lung. Experiments will be conducted to get a better understanding of respiratory diseases, with particular reference to the development of emphysema and chronic bronchitis and to the underlying biological mechanisms affected, such as ciliary activity, cell-cell interaction and the entry of foreign substances into the body via the respiratory system. In addition, the article will be used in the courses "Electron Microscopy for Experimental Pathologists" and "Electron Microscopy for Pathology Residents" to introduce students to modern electron microscopy techniques in order that they may successfully undertake activities relative to their field with further supervision. Article Ordered: May 10, 1979.

Docket No. 79-00320. Applicant: Morehouse College, School of Medicine, 223 Chestnut St., S.W., Atlanta, GA 30314. Article: Electron Microscope, Model H-300 and Accessories. Manufacturer: Hitachi Perkin-Elmer, Japan. Intended use of article: The article is intended to be used for localization of enzymes in soft tissues by histochemical methodology (2) localization of calcium and its insoluble salts within soft tissues by cytochemical techniques and (3) descriptive analysis of skeletongesis. Research studies shall be conducted on both invertebrate [the larval scleractinian coral] and vertebrate [the embryonic teleost and rat] organisms. In these studies concentration shall be on initial signs of mineral deposition and on examination of tissue-skeletal relationships by analysis of the primary skeletal deposits. Article Ordered: December 28, 1978.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-31524 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-25-M

Haskins Laboratories Inc.; Decision on Application for Duty Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666—11th Street, N.W. (Room 735) Washington, D.C.

Docket No.: 78–00408. Applicant: Haskins Laboratories, Inc., 270 Crown Street, New Haven, Conn. 06510. Article: Electro-Palatograph. Manufacturer: Rion Co., Ltd., Japan. Intended use of article: The article is intended to be used to register the temporal and spatial pattern of tonue contact on the palate during running speech thus providing a valuable way of studying the details of normal and deviant speech production. The article will be used in combination with other physiological measures of the direction and time course of tongue movement.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has the capability of measuring tongue-palate contact pattern. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated September 12, 1979 that (1) the capability of the foreign article describe above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-31525 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Public Hearings on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold a public hearing for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) prepared on the proposed Louisiana Coastal Resources Program.

The hearing schedule is:

New Orleans—October 30, 1979—7:00 p.m.

City Council Chambers, 1300 Perdido Street, New Orleans, Louisiana.

Houma—October 31, 1979—6:00 p.m.

Terrebonne High School Auditorium, Main Street at St. Charles Street, Houma, Louisiana.

Abbeville—November 1, 1979—7:00 p.m.

Comeaux Recreation Center, 301 Memorial Drive, Abbeville, Louisiana.

The views of interested persons and organizations on the adequacy of the impact statement and the proposed Louisiana Coastal Resources Program are solicited, and may be expressed orally or in written statements. Persons wishing to be heard on this matter should contact the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 (phone 202/634–4253), so that an appearance schedule may be prepared. Requests for presentations will be accepted until immediately prior to the hearings. Presentations are scheduled on a first-come, first-served basis and may be limited to ten minutes in order to assure that all views can be heard. No verbatim transcript of the hearing will be prepared, but comments will be recorded and summarized.

The Assistant Administrator for Coastal Zone Management will consider fully all comments received at these hearings, as well as written statements submitted to OCZM and received on or before November 12, 1979. As part of the procedures leading toward approval of the program, a Final Environmental Impact Statement, reflecting consideration of these comments, will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Dated: October 3, 1979.

Mirco P. Snidero,

Acting Deputy Assistant Administrator for Administration.

[FR Doc. 79-31530 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-08-M

Approval of Amendment to the Maine Coastal Program

Notice is hereby given that the Office of Coastal Zone Management has approved an amendment to the Maine Coastal Program effective July 19, 1979. The amendment includes satisfaction of the requirements for Shorefront Access and Protection Planning (305(b)(7)), Energy Facility Planning Process (305(b)(8)) and Shoreline Erosion Mitigation Planning (305(b)(9)).

Notice of intent to approve this amendment was published in the **Federal Register** and interested parties had until June 15, 1979, to comment. Only one comment was received. A full text of the amendment to the Maine Coastal Program was distributed to all Federal agencies. Interested parties wishing to obtain copies of the amendment may request copies from:

Nancy Carter, Assistant Regional Manager, North Atlantic Region, Office of Coastal Zone Management, 3300 Whitehave Street, N.W., Washington, D.C. 20235.

Dated: October 3, 1979.

Mirco P. Snidero,

Acting Deputy Assistant Administrator for Administration.

[FR Doc. 79-31531 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-08-M

Intent to Prepare an Environmental Impact Statement

The Office of Coastal Zone Management (OCZM) in the National Oceanic and Atmospheric Administration (NOAA) is preparing and intends to distribute a draft environmental impact statement (DEIS) on the proposed approval of the New Jersey Coastal Zone Management Program (NJCZMP) under the provisions of section 306 of the Federal Coastal Zone Management Act of 1972 (Pub. L. 92–583, as amended).

Federal approval of the NJCZMP would allow program administrative grants to be awarded to the State and require that Federal actions be consistent with the program. On September 30, 1978, OCZM approved a segment of the New Jersey Program for the Bay and Ocean Shore Region of the State. OCZM will prepare a DEIS that will encompass the entire State coastal zone in one unified document.

The program consists of numerous policies on diverse management issues which are enforced by various State laws, and is the culmination of four years of program development. The NJCZMP will condition, restrict or prohibit some uses in parts of the coastal zone, while encouraging development and other uses in other parts. The program will improve the decision-making process for determining appropriate coastal land and water uses in light of resource considerations and increase public awareness of coastal resources. The program will result in some short-term economic impacts on coastal users but will lead to increased long-term protection of the State's coastal resources. Federal alternatives include delaying or denying approval if certain requirements of the Coastal Zone Management Act have not been met. The State could modify parts of the program or withdraw their application for Federal approval if either of the above Federal alternatives results from the circulation of the DEIS. OCZM would be particularly interested in comments on the following areas:

(a) The extent to which the inclusion of the Hackensack Meadowlands Commission's Master Plan meets the requirements of Section 306 and 307(f) of the CZMA and the President's Executive Order No. 11990 Protection of Wetlands.

(b) The adequacy of a proposed boundary for the Northern Waterfront and Delaware River section above the Delaware River Memorial Bridge of 100 to 500 feet.

(c) The promulgation of new regulations for the Watefront Development Permit Program to apply inland to the extent of the proposed boundary.

(d) The extent to which proposed changes to the existing Coastal Area Facility Review Act (CAFRA) rules would not meet the requirements of Section 302 and 303 of the CZMA.

It is intended that the DEIS will be distributed in November, 1979. OCZM therefore requests that any interested party submit comments before October 20, 1979 to:

Ms. Kathryn Cousins or Mr. Dick O'Connor, North Atlantic Region, Office of Coastal Zone Management, 3300 Whitehaven St., N.W., Washington, D.C. 20234 (202/634–4126).

Any comments received after this date will be considered as comments on the DEIS and responded to accordingly.

Dated: October 3, 1979.

Mirco P. Snidero,

Acting Deputy Assistant Administrator for Administration.

[FR Doc. 79-31532 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-08-M

National Oceanic and Atmospheric Administration (NOAA)

Announcement of Gray's Reef, Outer Continental Shelf, as an Active Candidate for Marine Sanctuary Designation.

AGENCY: Office of Coastal Zone Management (OCZM) National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: An area known as Gray's Reef located off the Georgia Coast previously recommended for marine sanctuary designation has been determined eligible for inclusion on NOAA's List of Recommended Areas in accordance with the general program regulations and has been selected as an Active Candidate for designation.

DISCUSSION: In June of 1978 the Georgia State Department of Natural Resources (DNR) recommended an area encompassing 12 square miles of the South Atlantic continental shelf known as Gray's Reef for designation as a marine sanctuary pursuant to Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, 16 U.S.C. 1431–1434.

Under OCZM's recently revised procedures for designating marine sanctuaries (15 CFR Part 922, 44 FR 44831, July 31, 1979), all areas recommended as sites for marine sanctuary designation will be reviewed against the criteria in sction 922.21(b) to determine whether there is at least some potential for designation. Those sites meeting the criteria will be place on a List of Recommended Areas (List).

An initial List must be published within 3 months of publishing this regulation, by October 31, 1979. This List is currently in preparation. OCZM has reviewed the Gray's Reef sites and determined that it meets the above criteria and will include the site on its initial List.

In addition OCZM has determined that Gray's Reef fulfills the requirements outlines in Section 992.23(a) for selection of Active Candidates from the List. It is declared an Active Candidate.

In accordance with section 922.23(b), consultation has taken place on a preliminary basis with relevant Federal agencies, State, and local officials including port authorities, Regional fishery Management Councils and other interested persons. An Issue Paper will be prepared by OCZM in conjunction with the Georgia DNR describing the distinctive resources of the potential site, the present the prospective uses, existing government programs aimed at protecting those resources and alternative boundary, management and regulations that might be utilized for a marine sanctuary. As required in Section 922.24, Review of Active Candidates, OCZM will conduct one or more Public Workshops in the area or areas most affected within six months of the effective date of this publication. The Issue Paper and the Workshop(s) are designed to solicit views which will aid OCZM in determining whether the site should be further considered for Designation through the preparation of a Draft Environmental Impact Statement and whether any modifications of the recommendation may be appropriate. The Workshop(s) are in addition to the public hearings required under section 302(e) of the Act which would occur only following the preparation of a DEIS.

For Further Information Contact: JoAnn Chandler, Acting Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, (202) 634–4236.

Dated: October 4, 1979.

Mirco P. Snidero,

Acting Deputy Assistant Administrator for Administration.

[FR Doc. 79-31548 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-08-M

Approval of the South Carolina Coastal Zone Management Program and Alabama Coastal Area Management Program

Pursuant to the authority contained in Section 306(a) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1445(a)), notice is hereby given that the Assistant Administrator for Coastal Zone Management (on behalf of the Secretary of Commerce) on September 24, 1979 approved the coastal program of South Carolina and on September 25, 1979 approved the coastal program of Alabama.

Approval activates Federal agency responsibility for being consistent with these programs pursuant to the Federal consistency provisions of the Coastal Zone Management Act as of the date of approval. Further information on the responsibilities of affected Federal agencies in this regard may be found in 15 CFR Part 930, published in the

Federal Register, at page 37142, on June 25, 1979.

A copy of the findings made by the Assistant Administrator in determining that these programs meet the requirements of the Coastal Zone Management Act may be obtained upon request from the Office of Coastal Zone Management. Inquiries regarding the Alabama and South Carolina programs should be addressed to:

John C. Phillips, South Atlantic Regional Manager, Office of Coastal Zone Management, Page Building #1 Room 356, 3300 Whitehaven Street, NW., Washington, D.C. 20235, (202) 254–7494.

Ann Berger-Blundon, Gulf/Islands Regional Manager, Office of Coastal Zone Management, Page Building #1 Room 354, 3300, Whitehaven Street, NW., Washington, D.C. 20235, (202) 254–7546.

Mirco P. Snidero,

Acting Deputy Assistant Administrator for Administration.

October 4, 1979.

[FR Doc. 79-31533 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-08-M

Finding of No Significant Impact and of Approval of Amendment to the California Coastal Management Program

Notice is hereby given that on September 19, 1979, the Deputy Assistant Secretary of Commerce for Environmental Affairs made a Finding of No Significant Impact of the approval by the Assistant Administrator for Coastal Zone Management of Amendment Number 1 to the California Coastal Management Program in accordance with regulations published pursuant to the National Environmental Policy Act.

Notice is hereby given that on September 20, 1979, the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA) approved Amendment Number 1 to the California Coastal Management Program which incorporates the California Liquefied Natural Gas Terminal Act of 1977 (SB 1081) into the California Coastal Management Program which was approved by the Office of Coastal Zone Management pursuant to Section 306 of the Coastal Zone Management Act of 1972 (as amended), on November 7, 1977. Notice of preliminary approval of the amendment was in the **Federal Register** on April 4, 1979, (Vol. 44, No. 66, page 20237).

A report on this amendment which contains: (1) the findings and conclusions, (2) responses to comments on the preliminary decision to approve amendment, and (3) the finding of no significant environmental impact, is available to interested parties on request from Robert R. Kifer, Chief, NEPA Compliance Unit, Office of Coastal Zone Management, 3300 Whitehaven Street, N.W. Washington, D.C. 20235. (202) 634–4253.

The Office of Coastal Zone Management wishes to thank all those who participated in this amendment process.

Mirco P. Snidero,

Acting Deputy Assistant Administrator for Administration.

October 3, 1979.

[FR Doc. 79-31534 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-08-M

Approval of Amendment to the Maine Coastal Program

Notice is hereby given that the Office of Coastal Zone Management has approved an amendment to the Maine Coastal Program effective September 14, 1979. The amendment changes the boundary of the Maine Coastal Program to include the towns of Veazie and Eddington.

Notice of intent to approve this amendment was printed in the **Federal Register** and interested parties had until August 31, 1979, to comment. A full text of the amendment to the Maine Coastal Program was distributed to all Fedeal agencies. Interested parties wishing to obtain copies of the amendment may request copies from: Nancy Carter, Assistant Regional Manager, North Atlantic Region, Office of Coastal Zone Management, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

Mirco P. Snidero,

Acting Deputy Assistant Administrator for Administration.

October 3, 1979.

[FR Doc. 79-31535 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-08-M

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), will meet to discuss amendments one to both the Squid and Mackerel Fishery Management Plans, as well as discuss other fishery management business.

DATES: The meeting will convene on Wednesday, November 14, 1979, at approximately 1 p.m., and will adjourn on Friday, November 16, 1979, at approximately 1 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Best Western Airport Motel, Philadelphia, Pennsylvania Airport, Route 291, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: October 5, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-31636 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-22-M

Mid-Atlantic Fishery Management Council; Scoping Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council announces a Scoping Meeting to discuss the preparation of fishery management plans for black sea bass, scup, tilefish, other flounders (including winter, witch, plaice and windowpane), summer flounder, and dogfish. The scoping process is the initial step in preparing fishery management plans for the above species and notice hereof is intended to satisfy the Notice of Intent to Prepare Environmental Impact Statements for six plans involving these species. The scoping process is discussed in § 1501.7 of regulations (43 FR 55978) implementing the National Environmental Policy Act.

DATE: November 14, 1979, at 7:00 p.m.

ADDRESS: Best Western Airport Motel, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania 19153. Phone: (215) 365–7000.

FOR FURTHER INFORMATION CONTACT: John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Phone: (302) 674–2331.

Dated: October 9, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-31638 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-22-M

Rough-Toothed Dolphin; Prohibition of Take Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service.

ACTION: Notice of prohibition of take of rough-toothed dolphin incidental to commercial fishing operations.

SUMMARY: A prohibition on taking rough-toothed dolphin is being implemented due to the face that the quota established in 1979 for rough-toothed dolphin has been exceeded.

DATES: Effective October 19, 1979, rough-toothed dolphin may not be taken incidental to fishing operations pursuant to the general permit issued to the American Tunaboat Association, Category 2: Encircling Gear, Purse Seining Involving the Intentional Taking of Marine Mammals.

ADDRESSES: Observer records may be reviewed at the Southwest Regional Office, Office of the Director, 300 South Ferry Street, Terminal Island, California.

FOR FURTHER INFORMATION CONTACT: Richard Roe, Office of Marine Mammals and Endangered Species, 3300 Whitehaven Street NW., Washington, D.C. 20235, Telephone: (202) 634–7461.

SUPPLEMENTARY INFORMATION: In the permit issued to the American Tunaboat Association for 1979, a limit of five (5) rough-toothed dolphin mortalities was stipulated. That limit has been exceeded based on reports of National Marine Fisheries Service observers. In accordance with 50 CFR 216.24(d)(2)(i)(B) notice is hereby published of the date when a prohibition on further taking of rough-toothed dolphin, except as allowed in 50 CFR 216.24(d)(2)(i)(C), becomes effective.

Dated: October 9, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-31637 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Cancellation of Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: Notice is hereby given that the scheduled meeting on October 23–25, 1979, of the South Atlantic Fishery Management Council, as published in the **Federal Register**, Volume 44, Number 183, Page 54329, Wednesday, September 19, 1979, has been cancelled.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: October 5, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-31635 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Additional Import Controls on Certain Man-Made Fiber Textile Products From the Polish People's Republic

October 5, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the levels for miscellaneous cotton apparel in Category 359 and other woven fabrics, wholly of continuous man-made fibers, in Category 612 from Poland to respective levels of 600,000 pounds and 1,500,000 square yards and controlling imports at those designated consultation levels during the agreement year which began on January 1, 1979. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: The Governments of the United States and the Polish People's Republic have exchanged diplomatic notes amending the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 9 and 12, 1978, among other things, to establish designated consultation levels for Categories 359 and 612 at 600,000 pounds and 1,500,000 square yards, respectively, produced or manufactured in Poland and exported to the United States during the twelve-month period which began on January 1, 1979.

EFFECTIVE DATE: October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Shirley Hargrove, Trade and Industry Assistant, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On January 3, 1979, there was published in the **Federal Register** (44 FR 931) a letter dated December 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Poland, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. In accordance with the the terms of the amended bilateral agreement, the United States Government has decided also to control imports of cotton and man-made fiber textile products in Categories 359 and 612, produced or manufactured in Poland and exported to the United States during the twelve-month period which began on January 1, 1979 at the newly established designated consultation levels. The levels of restraint have not been adjusted to account for any imports after December 31, 1978. Imports during the period beginning on January 1, 1979 and extending through July 31, 1979 have amounted to 198,017 pounds in Category 359 and 830,704 square yards in Category 612. These imports will be charged. As the data become available, further charges will be made to account for the period beginning on August 1, 1979 and extending through the effective date of this action.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 5, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 27, 1978 by the Chairman Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Poland.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 9 and 12, 1978, between the Governments of the United States and the Polish People's Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on October 12, 1979 and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption

of cotton and man-made fiber textile products in Categories 359 and 612, produced or manufactured in Poland in excess of the following levels of restraint:

Category	12-mo level of restraint [1]
359	600,000 pounds.
612	1,500,000 square yards.

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1978. Imports during the period beginning on January 1 and extending through July 31, 1979 have amounted to 198,017 pounds in Category 359 and 830,704 square yards in Category 612.

Textile products in Categories 359 and 612 which have been exported to the United States prior to January 1, 1979 shall not be subject to this directive.

Textile products in Categories 359 and 612 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1448(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the Polish People's Republic and with respect to imports of man-made fiber textile products from Poland has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-31595 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-25-M

Announcing Additional Import Controls on Certain Man-Made Fiber Textile Products From Malaysia

October 5, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the minimum consultation level to 1.5 million square yards equivalent, for other man-made fiber yarns, wholly of non-continuous filament, in Category 604, produced or manufactured in Malaysia, and controlling imports at that level during the agreement year which began on January 1, 1979. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884); as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 18, 1978, between the Governments of the United States and Malaysia, agreement has been reached to increase the minimum consultation level for man-made fiber yarns in Category 604, produced or manufactured in Malaysia and exported to the United States during the twelve-month period which began on January 1, 1979, from one million to 1.5 million square yards equivalent, i.e., from 243,902 pounds to 365,854 pounds.

EFFECTIVE DATE: October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Norman Duckworth, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On January 3, 1979, there was published in the **Federal Register** (44 FR 930), a letter dated December 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Malaysia, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. In accordance with the terms of the bilateral agreement, the United States Government has agreed to increase the minimum consultation level for man-made fiber yarns in Category 604 during the agreement year which began on Janaury 1, 1979 to 365,854 pounds. Imports in the category during the period which began on January 1, 1979 and extended through July 31, 1979 have amounted to 218,134 pounds and will be charged. As the data become available, further charges will be made to account for the period which began on August 1, 1979 and extends through the effective date of this action.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 5, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 27, 1978 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Malaysia.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978; and in accordance with the provisions of Executive Order 11651 of March 3, 1971, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on October 12, 1979, and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 604, produced or manufactured in Malaysia, in excess of 365,854 pounds.[1]

Man-made fiber textile products in Category 604 which have been exported to the United States prior to January 1, 1979 shall not be subject to this directive.

Man-made fiber textile products in Category 604 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 4321), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 3421), September 5, 1978 (43 FR 39408), January 25, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Malaysia and with respect to imports of man-made fiber textile products from Malaysia have been determined by the Committee for the Implementation of Textile

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1978. Imports during the period, January-July 1979, have amounted to 218,134 pounds.

Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-31596 Filed 10-11-79; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1979 commodities to be produced by and service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 14, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1979, November 15, 1978 [43 FR 53151]:

Class 7110

Table, Wood, 7110-00-958-0780, 7110-00-823-7675.

SIC 7349

Janitorial Service, U.S. Courthouse Annex, 1 St. Andrews Plaza, New York, New York.

C. W. Fletcher,

Executive Director.

[FR Doc. 79-31510 Filed 10-11-79; 8:45 am]

BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

Publication of and Request for Comment on Proposed Rules Having Major Economic Significance; Amendment of Bylaw Section 104 and Coffee "B" Trade Rules B-5(1), B-5(14), B-9, and B-23 Schedule B-2 of the New York Coffee and Sugar Exchange, Inc.

The Commodity Futures Trading Commission, in accordance with section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. § 7a(12) (1976), as amended by the Futures Trading Act of 1978, Pub. L. No. 95-405, § 12, 92 Stat. 871 (1978), has determined that the following amendments to bylaw section 104 and Coffee "B" trade rules B-5(1), B-5(14), B-9 and B-23 Schedule B-2, submitted by the New York Coffee and Sugar Exchange, Inc., are of major economic significance and is therefore publishing these rules, as amended, for public comment. These amendments were submitted to the Commission on July 17, 1979.

The rules, as amended, are printed below showing deletions in brackets and additions underscored:

Sec. 104. All contracts for the future delivery of coffee shall be in one of the forms hereinafter set forth or hereinafter provided for in section 104.

Contract "B"—Brazil Coffee Contract

New York ——— 19—.

(deliver to) ———

(have)/(has) this day (bought)/(sold) and agreed to (receive from) ——— 32,500 lbs. (in about 250 bags) of Brazilian Coffees shipped from Brazilian Ports, grading from No. 2 to No. 6 inclusive. No premium shall be allowed for Coffee grading above No. 4.

At the price of ——— cents per pound for Brazilian Coffee No. 4 Sound (free from Rio Flavor, earthiness, Fermentation, or Foreign Characteristics), Fair to Good Roast, Solid Bean, Medium to Good Bean, with additions or deductions for other grades according to the differentials established by the rules of the New York Coffee and Sugar Exchange, Inc., (the "Exchange"), adopted in accordance with the By-Laws of the Exchange, and with additions or deletions for delivery points according to discounts and premiums as shall be established by the Board of Managers. Delivery may be made up of more than one chop. The several chops need not be of the same grade. The differential for grade with respect to each chop shall be based on the grade level for that chop.

Deliverable from licensed warehouse in the Port of New York District, the Port of New Orleans or such other ports as may from time to time be added by the Board of Managers as authorized by the By-Laws and rules of said Exchange, between the first and last days of ——— inclusive, the delivery within such time to be upon such notice to the buyer as prescribed in the rules of the Exchange.

Either party may call for margin as the variations of the market for like deliveries may warrant, which margin shall be kept good.

This contract is made in view of, and is in all respects subject to, the By-Laws, rules and regulations of the Exchange.

(Brokers) ———

(Across the face is the following)

For and in consideration of One Dollar to ——— in hand paid, receipt whereof is hereby acknowledged ——— accept this contract with all its obligations and conditions.

Rule B-5. (1) Transferrable Notices must be issued seven [five] days prior to the date of delivery [, provided that if the fifth day is not a business day or is a half day, delivery must be made on the next succeeding full business day]. Notices must be delivered before 5:00 P.M. on the business day prior to issuance [(except as hereinafter provided). In no case shall a Notice be issued on a day that will allow less than three business days to effect the delivery, including the day of issue and the day of delivery].

(a) No Notice shall be issued on an Exchange holiday [, nor on a day during which trading is suspended for any part of the full trading hours as prescribed in Coffee Trade Rule B-1, except when the last day on which Transferable Notices may be issued, in the current month, is declared an Exchange holiday or trading is suspended for part of the full trading hours too late for the issuance thereof on the preceding Notice Day].

(b) No Notice shall be issued on a half day.

Rule B-5. (14) Form of Transferable Notice for "B" Contract

New York Coffee and Sugar Exchange, Inc., No. ——— Transferable Notice

Coffee—New York Coffee and Sugar Exchange, Inc., Transferable Notice

A.M. o'clock. New York ——— 19—.

To:

Take notice that on ——— 19—, pursuant to our contract, we will deliver to you or to the last acceptor of this notice 32,500 pounds of ——— Coffee in bags of commercial size with all relevant documents at the Transferable Notice price of ——— cents per pound, basis Brazilian Coffee No. 4, Sound (free from Rio Flavor, Earthiness, Fermentation, or Foreign Characteristics), Fair to Good Roast, Solid Bean, with additions or deductions for other grades, established by the rules of the New York Coffee and Sugar Exchange, Inc., adopted in accordance with the By-Laws of said Exchange, all in accordance with and subject to the provisions of the Coffee Contract "B" and the By-Laws and rules of said Exchange and with additions or deductions for delivery points according to discounts and premiums as shall be established by the Board of Managers.

Strike out [Date of Certificate ———; grade if applicable ———, one To be certified under Rule 7.

Per———

———]

Each acceptor hereof agrees that the last acceptor hereof, between 10:00 A.M. and 2:00

P.M. on the day preceding the delivery date above set forth will present this notice to the issuer thereof and on the following day, between 10:00 A.M. and 2:00 P.M. will receive the relevant documents and pay for the Coffee as in this notice prescribed and will otherwise duly comply with and perform the terms, conditions and requirements of the Contract and of the By-Laws and rules of the New York Coffee and Sugar Exchange, Inc. with respect to said Contract and this Transferable Notice, and that each acceptor hereof will continue his (or their) liability to each other until such terms, conditions and requirements shall have been duly complied with and performed.

Time received ———————————
Accepted by ———————————
Transferred to ———————————

Rule B–9. The following provisions shall apply in the case of all deliveries of Coffee:

(1) Coffee shall be receivable and deliverable in the Port of New York District or the Port of New Orleans from or at such warehouses as may be approved by the Board of Managers and duly licensed as provided in the By-Laws and rules. Any other ports of delivery may be added upon the recommendation of the Coffee Committee, by action of the Board of Managers by a two-thirds vote of the Board.

No delivery of Coffee under an Exchange contract shall be made, unless said delivery is from or at a licensed warehouse.

All deliveries of Coffee under an Exchange contract shall consist solely of Coffee certified by the Exchange.

2. Deliveries on contracts of Coffee in store shall be made in one borough, parish and/or county only, and in lots of not less than 100 bags in any one store.

Rule B–23. The differences in value between grades applicable to the "B" Contract shall be as follows, the figures representing hundredths of a cent per pound of Coffee:

Schedule B–2

Difference in Value Between Delivery Ports
New York Port District—Basis
New Orleans Port District— Basis

Any person interested in submitting written data, views, or arguments on these rules should send his comments by November 13, 1979 to Ms. Jane Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581.

Issued in Washington, D.C. on October 9, 1979.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 79-31511 Filed 10-11-79; 8:45 am]

BILLING CODE 6351-01-M

Publication of and Request for Comment on Proposed Rules Having Major Economic Significance; Amendments to the Fresh White Egg Contract of the Chicago Mercantile Exchange

The Commodity Futures Trading Commission ("Commission"), in accordance with section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. § 7a(12) (1976), as amended by the Futures Trading Act of 1978, Pub. L. No. 95-405, § 12, 92 Stat. 871 (1978), has determined that certain revisions to the fresh white egg contract, submitted by the Chicago Mercantile Exchange, are of major economic significance because they introduce new provisions for certificate delivery. For the sake of clarity, the Commission is publishing the entire chapter containing the contract terms, as well as three additional rules which have required amendment.

Chapter 12 and rules 704, 706 and 707 are therefore printed below:

CHAPTER 12

Fresh White Eggs

The Rules in this Chapter apply to contracts commencing with ———————, 19——.

1200. Scope of Chapter

This chapter is limited in application to futures trading of fresh, large, white eggs. The procedures for trading, clearing, inspection, delivery, settlement and any other matters not specifically covered herein shall be governed by the rules of the Exchange.

1201. Commodity Specifications

The commodity traded pursuant to this chapter shall consist of large, white, fresh eggs shell treated according to industry practice, delivered in an approved plant.[1]

1202. Futures Call

A. Trading Months and Hours.—Futures contracts shall be scheduled for trading and delivery during such hours and in such months as may be determined by the Board.

B. Trading Unit.—The unit of trading, i.e., the contract, shall be 750 cases of 30 dozen each.

C. Price Increments.—Minimum price fluctuations shall be in multiples of $.0005 per dozen.

D. Daily Price Limits.—There shall be no trading at a price more than 2¢ per dozen above or below the previous day's settlement price.

E. Position Limits.—A person shall not own or control a total of more than 150 contracts in any one contract month, nor shall his net long or short position in all contract months combined exceed 150 contracts.

F. Trading Limits.—While restricted to the foregoing position limits a person shall not trade during one day more than 150 contracts.

G. Accumulation of Positions.—For purposes of this Rule 1202, the positions of all accounts owned or controlled by a person or persons acting in concert or in which such person or persons have a proprietary or beneficial interest shall be cumulated.

H. Bona Fide Hedges.—The foregoing position and trading limits shall not apply to bona fide hedging transactions meeting the requirements of section 4(a)3 of the Commodity Exchange Act and the rules of the Exchange.

[1] See also Rule 704.

I. Termination of Futures Trading.—Futures trading shall terminate on the business day immediately preceding the last seven business days of the contract month.

J. Contract Modifications.—Specifications shall be fixed as of the first day of trading of a contract, except that all deliveries must conform to government regulations in force at the time of delivery. If any federal governmental agency issues an order, ruling, directive or law that conflicts with the requirements of these rules, such order, ruling, directive or law shall be construed to take precedence and become part of these rules and all open and new contracts shall be subject to such government orders.

1203. Certificate of Delivery

A Certificate of Delivery shall constitute a binding commitment of an authorized egg plant guaranteed by its clearing member to deliver one trading unit of fresh eggs meeting the specifications of this Chapter within three business days after valid exercise.

A Certificate of Delivery may be issued on any business day of the delivery month up to and including the business day preceding the last four business days of that month. A Certificate shall be valid and may be submitted to the Clearing House up to and including the business day preceding the last three business days of the delivery month.

1204. Certificate Holding Charge

The holder of a Certificate of Delivery shall be assessed a charge of one cent ($.01) per dozen for each business day or part thereof he holds the Certificate except the day it is exercised. Payment shall be made by check to the Clearing House upon retender and/or upon exercise.

One half cent per dozen per business day shall accrue to the issuing plant as a carrying charge and the remaining half cent shall accrue as an allowance in favor of any subsequent purchaser who exercises the Certificate of Delivery, i.e. any buyer taking delivery, or the issuing plant repurchasing the Certificate of Delivery.

1205. Delivery Procedures

Delivery requires a Notice of Intent to Deliver and a Certificate of Delivery.

Rule 700 shall apply to delivery of eggs under this Chapter.

Delivery of the actual commodity may be made on any business day of the contract month.

A. Seller's Duties.—The clearing member representing a short that intends to make delivery shall submit a Notice of Intent to Deliver and a valid Certificate of Delivery to the Clearing House prior to 7:00 a.m. on the day of delivery of the Certificate.

B. Notice to Buyers.—The Clearing House shall promptly register the Certificate of Delivery, assign the Certificate and pass the Notice of Intent to Deliver according to the provisions of Rule 713 D.

C. Buyer's Duties.—The clearing member representing the buyer and receiving a Notice of Intent to Deliver shall present a certified or cashier's check in the amount of 22,500 times the settlement price on the day prior to receipt of that notice to the Clearing House no later than noon the business day following receipt of that notice.

The Clearing House shall hold the original purchase price of the Certificate of Delivery for the account of the issuing plant until completion of delivery or cancellation upon repurchase by the issuing plant. The Clearing House will release any subsequent purchase price upon completion of retender or reassignment to the retenderer.

D. Buyer's Options.—A buyer receiving a Notice of Intent to Deliver on other than the last day of trading shall either exercise the Certificate according to the provisions of Rule 1209 or retender it in accordance with the provisions of Rule 1206 by 11:00 a.m. on the day of receipt of said Certificate or by 11:00 a.m. on the next business day.

A buyer receiving a Notice of Intent to Deliver on the last day of trading may retender the Certificate by 10:00 a.m. on that day, may exercise the Certificate by 10:00 a.m. on that day, or may hold the Certificate. However, a buyer holding a Certificate after trading ceases for the month must exercise the Certificate no later than the first business day preceding the last 3 business days of the month.

A buyer receiving a Notice of Intent to Deliver after trading ceases for the month must exercise the Certificate no later than the first business day preceding the last 3 business days of the month.

If a buyer fails to exercise or retender as required, the clearing member representing that buyer shall be responsible for accepting delivery of the physical commodity.

1206. Retender of Certificates

A. Short Position.—A Certificate of Delivery may only be retendered in satisfaction of a short position in the same month as the month of its issuance. Said short position must be presented to the Clearing House. A buyer who receives a Certificate of Delivery may establish a short position without regard to the provisions of Rule 536 for the purpose of making a retender.

B. Retender Procedures.—The clearing member representing the retendering seller shall present a Notice of Intent to Deliver to the Clearing House in accordance with the time limits specified in Rule 1205D on the day of retender. A check in the amount of the holding charge described in Rule 1204 and a certified or cashier's check for the purchase price described in Rule 1205C shall be presented to the Clearing House in accordance with the time limits specified in Rule 1205C.

1207. Purchase of Retendered Certificate

A. Posting.—On the day of retender, the Clearing House shall post on the trading floor by 11:30 a.m. and until 12:30 p.m. notice of all retendered Certificates of Delivery identifying the issuing egg plant, its address and any accrued allowances, if the day of retender is the last day of trading, the Clearing House shall post such notice by 10:30 a.m. and until 11:30 a.m.

B. Purchase of Posted Certificates.—A posted Certificate of Delivery may only be purchased by a holder of a long position in the same month as the month of its issuance by open outcry. Said long position must be presented to the Clearing House. A long position may be established for the purpose of buying a retendered Certificate of Delivery without regard to the prohibitions of Rule 536.

C. Price.—The purchaser of a retendered Certificate of Delivery shall present to the Clearing House by noon of the business day following purchase a certified or cashier's check in the amount of 22.500 times the settling price on the day of purchase. The Clearing House shall remit said amount to the retenderer.

D. Purchaser's Duties.—The purchaser of a posted Certificate of Delivery may not retender. Said certificate, if purchased by other than the issuing plant, must be exercised by 11:00 a.m. the following business day.

E. Notification.—The purchaser's clearing member shall promptly notify the Clearing House whether the certificate is being purchased by the issuing egg plant or exercised.

1208. Reassignment of Retendered Certificate

If a retendered Certificate of Delivery is not purchased under Rule 1207, the Clearing House shall assign it to a long position in the same manner as specified in Rule 1205B. The assignee of a retendered Certificate is, in turn, a "Buyer" for purposes of determining said assignee's duties and options under this Chapter and under other applicable Exchange rules. However, the assignee-buyer's payment under Rule 1205C will not be held by the Clearing House for the account of the issuing plant but will be remitted to the retenderer.

1209. Exercise of Delivery Certificate

A. Exercise Procedures.—The clearing member representing an assigned buyer or the clearing member representing the purchaser of a retendered certificate exercises a Certificate of Delivery by written notice to the Clearing House in accordance with the time limits prescribed in 1205D. Full and proper payment of the purchase price shall be made by noon of the business day following receipt of the Notice of Intent to Deliver.

B. Issuing Plant's Duties.—The issuing plant shall have the eggs shell treated, inspected and otherwise ready for delivery within three business days after the day of exercise. Failure to do so shall result in the following additional charges to the issuing plant: one cent ($.01) per dozen per business day for each day thereafter until eggs are presented that have passed inspection and are otherwise ready for delivery. For purposes of this subsection, Rule 1209B, the business day shall end at 3:00 p.m., local time.

C. Exerciser's Duties.—The exerciser shall remove the eggs no later than the third business day after exercise, or if the issuing plant has failed to ready the eggs for delivery by the third business day after exercise, not later than the third business day after the eggs have passed inspection and are otherwise ready for delivery. However, if the eggs are inspected and otherwise ready for delivery prior to these time limits, the exerciser may make mutually satisfactory arrangements with the plant for an earlier pick-up. Failure to make timely removal, if such failure is not caused by the issuing plant's failure to have the eggs inspected and otherwise ready for delivery, shall result in the following additional charges to the exerciser: one cent ($.01) per dozen per business day for each day thereafter until the eggs are removed. For purposes of this subsection, Rule 1209C, the business day shall end at 3:00 p.m. local time.

D. Payment Due Upon Exercise of the Certificate.—The Clearing House shall remit to the exerciser of a Certificate the allowances accruing to the Certificate of Delivery under Rule 1204, and such allowances as may accrue under Rule 1212 for Quality, quantity, and delviery point deviations. In addition, any charges against the issuing plant under Rule 1209 shall be collected by the Clearing House and remitted to the exerciser of the Certificate.

1210. Cancellation of Delivery Certificates

A Certificate shall be deemed cancelled either upon purchase by the issuing egg plant or upon exercise in accordance with Rule 1209.

1211. Payment of Issuing Plant

Upon cancellation of a Certificate of Delivery, either by repurchase or exercise, the Clearing House shall remit to the issuing plant the original purchase price of such Certificate, plus all accrued carrying charges net of all deductions for quality, quantity, and delivery point allowance. Any additional amounts due to the issuing plant for eggs left in the plant beyond the allotted three business days shall be billed and paid through the Clearing House. Billings shall be made within thirty calendar days of removal, and payment shall be made within five calendar days of billing. The clearing member representing the buyer shall be responsible for payment of such additional amounts.

1212. Par Delivery and Substitutions

A. Par Delivery Unit—1. Quality Specifications.—The eggs shall be U.S. graded 20.0% AA Quality with the combination of 90.0% AA and A quality. No case shall contain less than 10.0% AA Quality. No case shall contain less than 75.0% AA and A Quality in combination.

The average net weight for par delivery shall be at least 46.0 pounds per case with no case weighing less than 45.0 pounds, net. The average net weight for par delivery shall not exceed 50.0 pounds per case with no individual case to exceed 51.0 pounds net.

In addition, eggs rating below B Quality shall not exceed 6%, including loss, which shall not exceed 1%.

2. Packaging.—Eggs must be packed in new or good used fibre or corrugated cases with fibre or corrugated centers which meet one of the following requirements:

a. A marked minimum bursting strength of 200 pounds with S, H, or Z liners.

b. Double walled without liners.

Other cases may be used if approved by the CME. The cases need not be manufactured by the same manufacturer. Filler-flats must be acceptable to the trade and be either new or good used. Cases must be taped with no less than a 2 inch tape but no more than a 3 inch tape or as approved by the U.S.D.A.

3. Delivery Points.—Par delivery of eggs shall be basis Chicago area. Deliveries made from outside Chicago area may be substituted with an allowance, as determined and published by the Chicago Mercantile Exchange.

B. Quality Deviations and Allowances.—Carlots grading below 90.0% but not less than 89.0% AA and A Quality may be delivered with an allowance of 1¢ per dozen. Carlots grading below 89.0% but not less than 88.0% AA and A Quality may be delivered with an allowance of 2¢ per dozen. Carlots grading below 88.0% but not less than 87.0% AA and A Quality may be delivered with an allowance of 4¢ per dozen. No carlots grading less than 87.0% AA and A Quality may be delivered. No case shall contain less than 75.0% AA and A Quality in Combination. No case shall contain less than 10.0% AA Quality.

C. Quantity Deviations and Allowances.—The Delivery unit may be 720 to 750 cases, but payment shall be made on the basis of the exact quantity delivered.

1213. Inspection

The eggs must meet the requirements of the U.S. Specifications and Weight Classes for Wholesale Grades for Shell Eggs as promulgated by the U.S. Department of Agriculture (USDA), Food and Safety and Quality Service. All cases must be taped and identified with a lot number prior to the selection of the sample by the USDA inspector. Tags will not be allowed. All cases delivered must be taped and identified with a USDA lot number prior to the selection of the sample by the USDA inspector; however, no case may be stamped with more than one USDA number.

Inspection must be made during the month of delivery and only after the Certificate of Delivery is exercised. Eggs delivered in one month shall not be eligible for delivery in any subsequent month.

1214. Appeal Grading at Point of Origin

A request may be made for appeal grading at the plant of origin. Requests for such appeal must be presented to the Chicago Mercantile Exchange no later than twelve noon Chicago time, on the day of notification of the results of the original inspection. Appeal grading shall be conducted by an inspector assigned by the Regional Director of the Food Safety and Quality Service, Poultry and Dairy Quality Division of the USDA. Appeal grading shall be performed in accordance with USDA procedures described in part 56 of the USDA regulations governing the grading of shell eggs. In the event that the appeal grading determines that the eggs presented meet contract requirements, the cost of such appeal shall be borne by the buyer, and penalties specified shall apply to any delay in picking up the eggs, whether or not the delay is caused by the appeal grading. Should the appeal grading determine that the eggs delivered do not meet the contract requirements, the seller will be considered to have failed to have made delivery and will be subject to the penalties described in Rule 1215. In addition, the seller must pay for the appeal grading. The results of the appeal grading are final, with no appeal. In the event that the FSQS Regional Director does not agree that an appeal grading is justified, then the original inspection shall be final.

1215. Failure of Eggs To Pass Appeal Grading

Upon failure of the eggs to pass appeal grading the seller shall pay a 1 cent per dozen per day penalty for each business day following the original date of inspection until eggs are presented that have passed inspection. Payment of penalties does not relieve the seller of its obligation to deliver acceptable eggs.

1216. Exchange Inspection Certificate

The rules of the Exchange in regard to the Exchange Inspection Certificate are not applicable to delivery under this chapter.

1217. Costs of Inspection, Weighing, Storage, Etc.

All charges for handling prior to removal by the exerciser from the plant, shall be borne by the seller. All charges incurred thereafter shall be borne by the exerciser.

The costs of all inspection examinations, documentation and related services performed by the USDA grader, and related services such as re-packaging after examination, shall be borne by the seller.

(End of Chapter 12)

Rule 1209C—Interpretation

Monthly Executive Report—March 1, 1972

All disputed in-plant storage charges shall be referred to the Egg Committee for final determination.

704. Approved Egg Plants

Delivery in satisfaction of the fresh egg contract shall be made exclusively from egg plants meeting Exchange requirements and approved for in-plant delivery of fresh shell eggs and authorized by the Exchange to issue Certificates of Delivery. Such approval and authorization shall be based upon satisfactory demonstration that the criteria set forth in the application form, as it may be from time to time amended, have been satisfied and that the applicant will fully perform all agreements and commitments set forth in the application.

The authorization shall specify approval to have outstanding at any one time a limited and certain number of Certificates of Delivery, said number to be determined, at the discretion of the Exchange, on the basis of plant capacity and ability to conform to Exchange regulations. That number shall apply after trading ceases for a delivery month. A plant shall not have outstanding at one time more than the approved number of certificates. The number of certificates issued by a plant shall not relieve said plant of its obligation to delivery against outstanding certificates.

706. Application for Inspection

Application for inspections to be used for delivery on exchange transactions must *be* filed by clearing members with the Inspection Department. Except where inspection is specifically allowed in-plant no inspection may be requested on commodities deliverable out of approved warehouses, stockyards, or mills *or plants* until such time as the commodity is received by the warehouse, stockyard, or mill *or plant.* Requests for inspections will be forwarded to the appropriate government office or other inspection agency in the order in which applications are received.

No member shall order an official inspection on another member's goods without the written order of such member. No inspection shall be made on any commodity on which there is outstanding *and* exchange *inspection* certificate unless the outstanding certificate is surrendered or invalidated. All commodities to be inspection for delivery on the Exchange shall conform and comply with the provisions of this chapter and the respective commodity chapter wherever applicable.

For all in-plant pork belly inspections the clearing member shall notify the CME Inspection Department of request for inspection by 10:00 AM one day prior to the date the inspection is to be done and specify the time and place at which the fresh bellies will be available for inspection. (CME 1100)

707. Official Exchange Inspection Certificates

All agricultural commodities delivered through the Exchange must carry an Exchange *inspection* certificate bearing the signature of the President or the Executive Vice-President and the seal of the Exchange and showing the grade of the commodity and the expiration date of the certificate. On all commodities, where the grades are based on United States Government standards, the commodities shall be inspected by government inspectors, and the government inspection certificate shall be attached to the Exchange *inspection* certificate. The cost of the Exchange *inspection* certificate shall be $3.00.

If the official USDA inspection certificate or other required inspection certificate is, through no fault of the seller, not received in time to make delivery, the President or Executive Vice-President, at his sole discretion, may issue the official Exchange *inspection* certificate on the basis of a telegraphed or telephoned report from the USDA inspector or other designated inspector. Such report shall: state that the delivery unit has passed inspection; note any defects that may be the basis for allowances; and state that the required USDA certificate or other required inspection certificate has been prepared for transmittal. In such case, the report shall be attached to the Exchange *inspection* certificate pending receipt of the *USDA* inspection certificate. The buyer shall in this event deliver his certified or cashier's check by noon on the business day following the day of delivery to the Clearing House which shall hold the check until all the required documents are received by the Clearing House. If all the required documents are not received by the Clearing House within 72 hours of the day of delivery, the seller may be deemed in default. (CME 1101).

Any person interested in submitting written data, views, or arguments on these rules should send his comments by November 13, 1979 to Ms. Jane Stuckey, Executive Scretariat, Commodity Futures Trading

Commission, 2033 K Street NW., Washington, D.C. 20581.

Issued in Washington, D.C., on October 9, 1979.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 79-31512 Filed 10-11-79; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare Draft Environmental Impact Statement (DEIS) for the Mississippi River and Tributaries, Tensas River Basin, Exclusive of Bayou Macon, Ark., and La., Project 01860 (Tensas River Project Element)

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

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Description of Action:* The authorized plan, designed to reduce agricultural flood damages along the Tensas River and Mill Bayou-Bayou Vidal, provides for enlargement and realignment of the Tensas River upstream from river mile 61.6 and enlargement of a tributary, Mill Bayou and Bayou Vidal. The ongoing Phase 1 General Design Memorandum studies are directed toward achieving the flood control objective by channel improvement works of limited scope and preservation to the degree possible of bottom-land hardwood forests, wetlands, lakes and streams, and other environmental resources associated with the Tensas River.

2. *Possible Alternatives:* Enlargement of the existing Tensas River channel, channel enlargement and bendway cutoffs, limited channel work reaches, and no action. Land acquisition and environmental easements are being considered as alternatives to preserve bottom-land hardwood forest resources.

3. *Description of Scoping Process.*

a. *Public involvement.* Close coordination has been maintained with interested governmental agencies and concerned groups and individuals throughout the long period that this project has been under study. Public meetings were held on this project in the Mississippi River and Tributaries project review studies prior to 1965, in 1974, and during the Presidential Review of the Tensas Basin Project in 1977. Numerous meetings have been held with soil and water conservation districts, parish police juries, and representatives of levee and drainage districts in the study area. At least one additional public meeting is planned as part of the ongoing project study.

b. *Issues analyzed in the EIS.* The major issues of the Tensas River Project are considered to be the positive economic impacts of channelization of the Tensas River and the negative impacts on environmental elements, including bottom-land hardwood forests, wetlands, water quality of lakes and streams, and fish and wildlife resources, including the endangered American alligator. Impacts on terrestrial and aquatic ecosystems, as well as impacts on archeological and socioeconomic elements, will be analyzed in the EIS.

c. *Assignments for input into the EIS.* No specific assignments other than the Corps of Engineers as responsible agency.

d. *Environmental review and consultation requirements.* Review by Federal, State, and local agencies and interested groups and individuals.

4. *Scoping Meeting Schedule.* Because of the advanced state of the study and the extensive coordination with interested agencies and groups to date, a scoping meeting will not be held.

5. *Date DEIS will be Available to Public.* April 1980.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Robert Wilcox, Project Study Manager, Planning Division, U.S. Army Corps of Engineers, P.O. Box 60, Vicksburg, Mississippi 39180.

Samuel P. Collins, Jr.,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-31527 Filed 10-11-79; 8:45 am]

BILLING CODE 3710-GX-M

Army Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Navigation Improvements for Richmond Harbor, Contra Costa County, Calif.

AGENCY: U.S. Army, Corps of Engineers, Department of the Army.

ACTION: Notice of Intent to prepare a DEIS.

SUMMARY: 1. The tentatively selected project assumes completion of the John F. Baldwin Ship Channel and involves deepening the existing channels from the entrance adjacent the Richmond Long Wharf Maneuvering Area to the upper end of the Inner Harbor Channel as follows: deepen the existing 6,060 foot entrance channel to −42 feet MLLW with 600 feet width; deepen the Inner Harbon Channel from Pt. Richmond to Santa Fe Channel to −42 feet MLLW with 600 feet width; deepen the two existing turning basins −42 feet MLLW; and dredge a new turning basin at Ford Channel to −42 feet MLLW about 1,900 feet long and varying from 300–2,000 feet wide.

2. The alternatives to the proposed action that will be studied in detail are as follows:

a. No action.

b. Improving existing Richmond Harbor Channels and connecting Channel with construction of John F. Baldwin Ship Channel.

c. Improving existing Richmond Harbor Channels and connecting Channel without construction of John F. Baldwin Ship Channel.

d. Improving existing Richmond Harbor Channels and West Richmond Channel and Richmond Long Wharf Manuevering Area without construction of John F. Baldwin Ship Channel.

3. In April 1974 the Corps of Engineers presented an initial array of alternatives for channel improvements in an Environmental Working Paper. The initial public meeting was held on 14 April 1971 and a second public meeting was held on 30 September 1975 to identify significant issues to be evaluated in the DEIS. These issues included development of the Port of Richmond to meet future cargo increases expected in the San Francisco Bay Area, open-water disposal impacts in the bay, and opposition to new channel dredging by the U.S. Fish and Wildlife Service.

The Fish and Wildlife Service provided the Corps of Engineers with a draft of their letter report on 28 July 1977.

In November 1977 the Fish and Wildlife Service submitted to the Corps of Engineers a letter report on the effects that proposed navigation improvements for Richmond Harbor would have on fish and wildlife resources. The report recommended several studies to investigate the impacts of disposal of dredged material in inland waters.

With the development of Section 404(b) guidelines, appropriate discussion in the DEIS will address the concerns of dredged material disposal in open waters of the Bay.

4. A scoping meeting as described in the 29 November 1978 CEQ Federal Regulation was not held as the guidelines were not published during initiation of this study.

5. It is expected that the DEIS will be made available to the public in late April 1980.

6. Question about the proposed action and DEIS can be answered by Les Tong, U.S. Army Corps of Engineers, SPNED-ED, 211 Main Street, Room 809, San Francisco, California, 94105.

Dated: October 2, 1979

John M. Adsit,

Colonel, CE, District Engineer.

[FR Doc. 79-31515 Filed 10-11-79; 8:45 am]

BILLING CODE 3710-FS-M

DEPARTMENT OF ENERGY

Ecomomic Regulatory Administration

Action Taken on Consent Orders

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the months of June, July, and August 1979. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders are to bring the consenting firms into present compliance with the Mandatory Petroleum Allocation and Price Regulations and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions:

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height; or post and maintain in legible form a certification that the maximum lawful selling price for a particular type or grade of gasoline is equal to or below the maximum lawful selling price; and

3. Properly maintain records required under the aforementioned regulations.

For further information regarding these Consent Orders, please contact William D. Miller, District Manager of Enforcement, 324 East 11th Street, Kansas City, Missouri 64106, telephone number (816) 374-5936.

Issued in Kansas City, Missouri on October 3, 1979.

William D. Miller,

District Manager of Enforcement.

Firm Name, Address, and Audit Date

1. Mike's Sunoco #2, 1226 George Town Road, Columbus, Ohio, 6-1-79.
2. Riffle's Union 76, 2774 Briggs, Columbus, Ohio, 6-1-79.
3. Rick's Great Lake Shell, 7408 Mentor, Mentor Township, Ohio, 6-1-79.
4. Texaco Chardon, 3801 Center, Chardon, Ohio, 6-1-79.
5. Montville Sohio, 16399 Garr Road, Chardon, Ohio, 6-6-79.
6. Edina Shell, 4101 West 50th Street, Edina, Minn., 6-7-79.
7. Grove/Elmwood Standard, 900 Grove, Evanston, Ill., 6-8-79.
8. Points Clark, 2075 E. 95th, Chicago, Ill., 6-8-79.
9. Fieldcrest Standard, 15900 S. Crawford, Markham, Ill., 6-4-79.
10. Capitol Tire, 1625 Leonard NE, Grand Rapids, Mich., 6-5-79.
11. Ron's Northside Standard, 365 N. Washington, Constantine, Mich., 6-7-79.
12. Dave's Genesee Valley Standard, G-5010 Miller, Flint, Mich., 6-5-79.
13. Sunoco Action Oil, G-5016 N. Clio, Flint, Mich., 6-8-79.
14. Pratt's Sunoco, 3670 E. Washington, Saginaw, Mich., 6-6-79.
15. Doug Maginnis Standard, 631 S. State, Big Rapids, Mich., 6-7-79.
16. Nine Mile & Green Field Shell, 15450 W. Nine Mile, Oak Park, Mich., 6-7-79.
17. Steward's Clark, 3121 S. Warren, Westland, Mich., 6-4-79.
18. Ladd's Super Serv., 8600 W. Nine Mile, Oak Park, Mich., 6-7-79.
19. Z & L Service, 14243 Ford Rd., Dearborn, Mich., 6-8-79.
20. Denny's Mobil, 1750 West Milwaukee, Alanville, Ill., 6-14-79.
21. Burrell's Amoco, 3100 S. Indiana, Chicago, Ill., 6-14-79.
22. Burrell's Amoco, 2501 S. King, Chicago, Ill., 6-12-79.
23. Jensen's Standard, Rt. 17 & 47, Dwight, Ill., 6-11-79.
24. Masonic & Harper Shell, 32300 Harper, St. Clair Shores, Mich., 6-12-79.
25. Yangs Mobil, 27431 Plymoth, Livonia, Mich., 6-15-79.
26. Don's Jefferson & Lakewood Sunoco, 14297 East Jefferson, Detroit, Mich., 6-13-79.
27. W. Weisman Service, 26355 Telegraph Rd., Southfield, Mich., 6-13-79.
28. James Sandusky, 20041 West 12 Mile Rd., Southfield, Mich., 6-15-79.
29. Wescoe Service, 200 NW 72nd, Gladstone, Mo., 6-28-79.
30. Kings Robo Car Wash, 1708 W. Jesse James Rd., Excelsior Springs, Mo., 6-19-79.
31. 101 Car Wash, 3537 Main, Kansas City, Mo., 6-18-79.
32. KCI Texaco, KCI Airport, Kansas City, Mo., 6-15-79.
33. Big G—Hammond Inc., Salt Lick & Mexico, St. Peters, Mo., 6-19-79.
34. Ed's Beverly Arco, 10300 S. Western, Chicago, Ill., 6-22-79.
35. Archer Halstead Shell, 2500 Halstead, Chicago, Ill., 6-19-79.
36. Sam Brothers Shell, 7559 S. Jeffrey, Chicago, Ill., 6-20-79.
37. Tom's Enco, 1952 E. Court, Kankakee, Ill., 6-19-79.
38. Shoemakers Standard, 5th & Chestnut, Canton, Ill., 6-22-79.
39. Bartonville Standard, Garfield & Lafayette, Bartonville, Ill., 6-20-79.
40. Mellott's Lighthouse Mobil, 621 Roosevelt, Glen Ellyn, Ill., 6-20-79.
41. Birt-Vic's Service, 23951 Fenkell, Detroit, Mich., 6-21-79.
42. Meijer Thrifty Acres, 2333 South Center, Flint, Mich., 6-18-79.
43. Al's Union 76, 2602 North Grand River, Lansing, Mich., 6-22-79.
44. Harper & Cadieux Standard, 17111 Harper, Detroit, Mich., 6-18-79.
45. Rinaldi Brothers, 8281 East 10 Mile Road, Centerline, Mich., 6-19-79.
46. Belle Isle Standard, 7255 East Jefferson, Detroit, Mich., 6-19-79.
47. Grau's Standard, 4090 East 9 Mile Road, Warren, Mich., 6-21-79.
48. Gugan-Lowe Oil, 3003 Lafayette, St. Joseph, Mo., 6-27-79.
49. Skelly, 13th & Gay, Warrensburg, Mo., 6-27-79.
50. Finley's Conoco, Hiway 50 & 13, Warrensburg, Mo., 6-27-79.
51. Larry's Automotive, P.O. Box 371, Warrensburg, Mo., 6-27-79.
52. J & S Oil #2, South Hwy. 283 & I-80, Lexington, Nebr., 6-25-79.
53. 87th & Loumis Shell, 1356 W. 87th, Chicago, Ill., 6-27-79.
54. Brecksville Sunoco, 8966 Breckville Rd., Breckville, Ohio, 6-27-79.
55. Randall Sunoco, 5125 Northfield, Bedford Heights, Ohio, 6-26-79.
56. Lakewood Oklahoma Service, 5990 E. 71st, Indianapolis, Ind., 6-28-79.
57. Maplewood Shell, 6132 Stellhorn, Ft. Wayne, Ind., 6-27-79.
58. Newton Standard, North 9th & "A" Street, Richmond, Ind., 6-29-79.
59. McClure Coal & Oil, 720 N. Washington, Marion, Ind., 6-27-79.
60. Munro Service, 5801 South Anthony, Ft. Wayne, Ind., 6-27-79.
61. Martin Party Store, 235 E. US & 1, Negaunee, Mich., 6-28-79.
62. Erickson Oil Products, 501 West Washington, Marquette, Mich., 6-27-79.
63. Superior Auto Service, 500 South Front, Marquette, Mich., 6-27-79.
64. Shaw's Service, Rt. 2 & Rt. 41—Harvey Street, Marquette, Mich., 6-27-79.
65. Chassell Phillips 66, Chassell, Mich., 6-29-79.
66. Owens Sunoco, 15 M-15, Ortonville, Mich., 6-27-79.
67. Zaber's Clark Super 100, 1410 Detroit, Flint, Mich., 6-29-79.
68. Lawrence Deutschel, 10800 Hayes, Detroit, Mich., 6-27-79.
69. Mack & Hawthorn, 20805 Mack, Gross Point, Mich., 6-28-79.
70. Safiediene's Mobil, 23891 McNichols, Detroit, Mich., 6-29-79.
71. Malik Union 76, 7900 Golden Valley Road., Minneapolis, Minn., 6-25-79.
72. Burnsville Mobil, 501 W. Burnsville Prkwy., Burnsville, Minn., 6-28-79.
73. Plymouth Standard, 10910 Olson Memorial Hwy., Plymouth, Minn., 6-29-79.
74. John's South Twin Texaco, 2600 Lemey Ferry, St. Louis, Mo., 6-26-79.
75. Concord Car Wash, 5677 S. Lindburg, St. Louis, Mo., 6-26-79.
76. Coral Truck Stop, P.O. Box 29, Barnhart, Mo., 6-26-79.
77. Gold Oil, 701 Sherman, Releville, Ill., 6-28-79.
78. Tom's Auto Repair, 2000 North 3rd, St. Charles, Mo., 6-29-79.
79. Clark Station, 601 Cass Avenue, Westmont, Ill., 7-6-79.
80. Tri-Mart, 16658 South Crawford, Markham, Ill., 7-6-79.

81. Century Shell, 18265 South Dixie Hwy., Homewood, Ill., 7–5–79.
82. Jonson's Arco, 8701 South Ashland, Chicago, Ill., 7–5–79.
83. Union 76 K & L Auto Wash, 8801 West 84th Place, Justice, Ill., 7–3–79.
84. Gross Point Dempster, 5140 Dempster, Skokie, Ill., 7–2–79.
85. Bobbas Service, 7142 West Archer, Chicago, Ill., 7–2–79.
86. Central Texaco, 5541 West 147th, Oak Forest, Ill., 7–2–79.
87. Youngs Amoco, 792 Martin, Greenville, Ohio, 6–29–79.
88. Waynetown Shell, 5939 Brandt Pike, Dayton, Ohio, 6–28–79.
89. Brown's Gulf, 11701 St. Clair, Cleveland, Ohio, 7–3–79.
90. Toby's Downtown Shell, 139 East Grand River, Brighton, Mich., 6–29–79.
91. Bill's Auto Repair, College at Michigan, Grand Rapids, Mich., 6–27–79.
92. Shell Station, Puritan & Wyoming, Detroit, Mich., 6–29–79.
93. Rochester Colonial Standard, 100 West University, Rochester, Mich., 7–3–79.
94. Walnut Lake Service Center, 2065 Walnut Lake, West Bloomfield, Mich., 6–29–79.
95. 17 Mile & Rochester Shell, 3990 Rochester, Troy, Mich., 6–30–79.
96. Oak Grove DX, Oak Grove, Mo., 7–9–79.
97. Quinlan Standard, 3215 Main, Kansas City, Mo., 7–9–79.
98. At Your Service, 4311 Beck, St. Louis, Mo., 7–12–79.
99. Fran's Service Station, 2286 S. Kingshighway, St. Louis, Mo., 7–12–79.
100. Highway Car Wash, 2040 Highway 67, Florissant, Mo., 7–12–79.
101. Florissant Speedway Car Wash, 6507 West Florissant, St. Louis, Mo., 7–12–79.
102. Bob's Mobil, 1900 Edwardsville Rd., Madison, Ill., 7–10–79.
103. Monsanto Moto, 3120 Mississippi Ave., Sauget, Ill., 7–12–79.
104. Ten Brook Shell, 806 Jeffco Blvd., Arnold, Mo., 7–12–79.
105. Brouk-Zeigler Motor, Inc., P.O. Box 36, Arnold, Mo., 7–12–79.
106. Hilltop Zephyr, Hwy. 67 & CC, Festus, Mo., 7–12–79.
107. Victor-Huskey, 1700 N. Main, DeSoto, Mo., 7–11–79.
108. Victor-Huskey, 1700 N. Main, DeSoto, Mo., 7–11–79.
109. Vernon Rhoades, Hwy. 21 & A Rd., Hillsboro, Mo., 7–12–79.
110. Thoele Oil Co. d.b.a. St. Peters Zephyr, South Outer Road, St. Peters, Mo., 7–10–79.
111. Go-Low Gas, 750 East Higgins Rd., Schaumburg, Ill., 7–12–79.
112. Ron's Union 76, 1507 Schaumburg Rd., Schaumburg, Ill., 7–11–79.
113. President & Roosevelt Standard, 1003 Roosevelt, Wheaton, Ill., 7–9–79.
114. Quad-City Shell, 18101 South Halsted, Homewood, Ill., 7–9–79.
115. Neely Brothers Shell, 6659 South Wentworth, Chicago, Ill., 7–13–79.
116. Hoot Gibson Shell, 8732 North Dixie, Dayton, Ohio, 7–12–79.
117. Zak's Bay Station, 2516 East Kalamazoo, Lansing, Mich., 7–10–79.
118. Vic's Gulf, 3231 North Woodruff, Weidman, Mich., 7–10–79.
119. Ray's Sunoco, 111 Washington St., Greenville, Mich., 7–10–79.
120. Pilkard's Standard, Intersection R–96 & Plainfield Rd., Plainfield, Mich., 7–10–79.
121. Ed's Sunoco, Intersection I–75 & M–61, Standish, Mich., 7–13–79.
122. Ron Profant, 14 Mile Rd. and Schonherr, Warren, Mich., 7–13–79.
123. Bedinko Sunoco, 23011 Dequindre, Hazel Park, Mich., 7–13–79.
124. Westmain Super America, 750 West Main, Anoka, Minn., 7–6–79.
125. Golden Valley Mobil, 1910 Douglas Dr., Golden Valley, Minn., 7–10–79.
126. Granger Hill Gulf, 7903 Granger Road, Valley View, Ohio, 7–6–79.
127. Anton's Cedar/Kildare Sohio, 13246 Cedar Road, Cleveland Heights, Ohio, 7–9–79.
128. CBA Towing (Sunoco), 463 E. Aurora Road, Macedonia, Ohio, 7–10–79.
129. Superior 17th Shell, East 17th & Superior, Cleveland, Ohio, 7–24–79.
130. Leach Standard, 9720 Manchester, St. Louis, Mo., 7–18–79.
131. Forest Park Car Wash, 4581 Forest Park, St. Louis, Mo., 7–23–79.
132. Toughy & Elmhurst Shell, 2400 South Elmhurst Road, Des Plains, Ill., 8–1–79.
133. Grove Mobil Service, Higgins & Arlington Road, Elk Grove, Ill., 8–1–79.
134. Clark Super 100, 7283 South Chicago Ave, Chicago, Ill., 8–2–79.
135. Sams Brothers Super Shell, 7559 South Jeffery, Chicago, Ill., 8–2–79.
136. Schaumburg Arco, 1600 West Wise Road, Schaumburg, Ill., 8–2–79.
137. Al's Arco Service, Milwaukee Ave. & Route 22, Half Day, Ill., 8–6–79.
138. North Shore Texaco, 8800 North Port Washington, Milwaukee, Wis., 8–8–79.
139. King's Standard, 6701 South Jeffery, Chicago, Ill., 8–1–79.
140. Stilley's Texaco, I–94 & Hwy 83, Delafield, Wis., 8–8–79.
141. Toughy-LeHigh Shell, 5900 West Toughy Avenue, Niles, Ill. 60648, 8–13–79.
142. Peterson-Western Shell, 6000 Northwestern Ave., Chicago, Ill. 60645, 8–13–79.
143. Edgewater Standard, 9410 McCormick Road, Skokie, Ill., 8–15–79.
144. Sharkeys Mobil, 8826 Wornall, Kansas City, Mo., 8–2–79.
145. Service Group Co-op, 3537 Main, Kansas City, Mo., 8–2–79.
146. Wesco Investment, 200 N.W. 72nd, Gladstone, Mo., 8–1–79.
147. Montgomery Ward Auto, 11201 West 95th Street, Overland Park, Kans., 8–3–79.
148. Jewel Smith Mobil, 2601 Swope Parkway, Kansas City, Mo., 8–1–79.
149. Chief's Texaco, I–70 & Hwy 157, Collinsville, Ill. 62234, 8–6–79.
150. Mobil-Bud's Service Center, 800 South Belt West, Belleville, Ill. 62221, 8–6–79.
151. Baker's Mobil, 2327 Gravois, St. Louis, Mo. 63104, 8–6–79.
152. Woodbine Service Station, 647 West Woodbine, St. Louis, Mo. 63122, 8–6–79.
153. Cave Springs Skelly, Cave Springs & I–70, St. Charles, Mo. 63301, 8–6–79.
154. Convent Gardens Standard, 2601 North Broadway, St. Louis, Mo. 63102, 8–7–79.
155. Tom's Clark Station, 5120 Natural Bridge, St. Louis, Mo. 63115, 8–7–79.
156. Jerry's Standard, 11601 Olive Blvd., St. Louis, Mo. 63141, 8–6–79.
157. Mike's Sunoco, 8207 Delmar, St. Louis, Mo. 63130, 8–9–79.
158. Taynor Oil, Box 81, Jonesburg, Mo. 63351, 8–8–79.
159. Grand & Sidney Shell, 2350 South Grand, St. Louis, Mo. 63104, 8–10–79.
160. Ronsick's Automotive Shell, New Halls Ferry & Hwy 67, Florissant, Mo. 63033, 8–10–79.
161. Hood's Standard, 2620 West Clay, St. Charles, Mo. 63301, 8–13–79.
162. Plemone's DX, 3918 Fleur Drive, Des Moines, Iowa 50315, 8–13–79.
163. Merle Hay DX, 4935 Merle Hay Road, Des Moines, Iowa 50323, 8–13–79.
164. Dick's Skelly, 4704 SW 9th, Des Moines, Iowa 50315, 8–13–79.
165. Bean's 66, 122 South 1st, Winterset, Iowa 50273, 8–13–79.
166. Sedars North Federal 66, 307 North Federal, Mason City, Iowa 50401, 8–13–79.
167. McLaughlin Standard, 123 6th Street Southeast, Mason City, Iowa 50401, 8–13–79.
168. South Federal Conoco, 710 South Federal, Mason City, Iowa, 8–13–79.
169. Holiday Inn Texaco, 2021 4th Street Southwest, Mason City, Iowa 50401, 8–13–79.
170. Roofs Service Center, 138 5th Street Southwest, Mason City, Iowa 50401, 8–13–79.
171. Jorgensen Skelly, 1425 South Federal, Mason City, Iowa 50401, 8–13–79.
172. Ray's DX, 301 East Main, Anamosa, Iowa 52250, 8–13–79.
173. Brady's 66 Service, 401 East Main, Anamosa, Iowa 52250, 8–13–79.
174. Interstate Conoco, 4950 Merle Hay Road, Des Moines, Iowa 50323, 8–13–79.
175. Interstate Conoco, East 1st Street & Delaware, Ankeny, Iowa 50021, 8–13–79.
176. Brightwell Oil Co., 1142 42nd, Des Moines, Iowa 50311, 8–13–79.
177. Farmers Co-op, 1930 21st Ave., Waverly, Nebr. 68462, 8–13–79.
178. Roy Fielder 66, 1108 Northwest St., Wichita, Kans., 8–3–79.
179. Smith's Texaco, 150 South Hillside, Wichita, Kans., 8–3–79.
180. Georgetown I–64 Shell, I–64 & State Road 64, Edwardsville, Ind., 8–9–79.
181. Smith Standard, 6998 East 30th Street, Indianapolis, Ind. 46219, 8–6–79.
182. Dick's Sunoco, Route 9, Columbus, Ind. 47201, 8–7–79.
183. Beechgrove Standard, 4141 South Emerson, Indianapolis, Ind. 46203, 8–7–79.
184. Frank Harris Shell, 8820 St. Clair, Cleveland Ohio, 8–3–79.
185. Booker Burton Sohio, 8820 Euclid Avenue, Cleveland, Ohio, 8–3–79.
186. John Miley Shell, 9200 Carnegie, Cleveland, Ohio, 8–3–79.
187. Curt Bolden Union 76, West 47th & Clark, Cleveland, Ohio, 8–3–79.
188. Charles Beam Sunoco, 8502 Madison Avenue, Cleveland, Ohio, 8–3–79.
189. Neville O'Sullivan Sunoco, 8805 Buckeye, Cleveland, Ohio, 8–6–79.
190. Jeffrey Hulligan Gulf, 2020 St. Clair, Cleveland, Ohio, 8–6–79.
191. D. L. Nicholas Sunoco, 4902 Superior, Cleveland, Ohio, 8–6–79.
192. Richard Adams Shell, 3020 Carnegie, Cleveland, Ohio, 8–6–79.

193. Jezan Inc. (Sunoco), 1905 East 55th Street, Cleveland, Ohio, 8–7–79.
194. Ed Turk Arco, 6101 St. Clair, Cleveland, Ohio, 8–7–79.
195. East Side Shell, 2165 East 55th Street, Cleveland, Ohio, 8–7–79.
196. Miley Sunoco, 2130 East 55th Street, Cleveland, Ohio, 8–7–79.
197. Noah Sunoco, 7318 Superior Avenue, Cleveland, Ohio, 8–8–79.
198. Melvin Bankhead Shell, 14021 St. Clair, Cleveland, Ohio, 8–8–79.
199. Isiah Clayter Shell, 12300 St. Clair, Cleveland, Ohio, 8–8–79.
200. Hughes Sunoco #1, 16436 Miles, Cleveland, Ohio, 8–9–79.
201. David Warner Shell, 4042 Warrensville Center, Cleveland, Ohio, 8–9–79.
202. James Swope Sunoco, 4021 East 116th, Cleveland, Ohio, 8–10–79.
203. Short Sunoco, 829 Superior, Cleveland, Ohio, 8–13–79.
204. Barbetta Shell, 7301 Broadway, Cleveland, Ohio, 8–13–79.
205. Fazio's Sunoco, 8941 Broadway, Cleveland, Ohio, 8–13–79.
206. Award Tune-Up (Arco), 3950 St. Clair, Cleveland, Ohio, 8–14–79.
207. Wickliffe Texaco, 29414 Euclid, Wickliffe, Ohio, 8–6–79.
208. Lincoln Shell, 29200 Euclid, Wickliffe, Ohio, 8–6–79.
209. Cove Sunoco, 15610 Lakeshore, Cleveland, Ohio, 8–7–79.
210. Marghand's Freeway Sunoco, Route 193 & I–90, Kingsville, Ohio, 8–8–79.
211. Huntington Auto Service, 1321 Ride Road, Hinckley, Ohio, 8–9–79.
212. Holiday Service Union 76, 26100 Chagrin, Beechwood, Ohio, 8–10–79.
213. Edgewater Marina, 6500 Cleveland Memorial Shoreway, Cleveland, Ohio, 8–13–79.
214. Herb's Exxon Service, 2562 Columbus Street, Grove City, Ohio, 8–15–79.
215. Sharonville Exxon, 11785 Lebanon Road, Cincinnati, Ohio, 8–15–79.
216. Salt Fork Park Marina, Salt Fork Lake, Cambridge, Ohio, 8–15–79.
217. Northland Mobil, 916 Morse Road, Columbus, Ohio, 8–3–79.
218. Southern Pines Exxon, 3494 Parsons, Columbus, Ohio, 8–10–79.
219. West Broad Car Wash, 3059 West Broad, Columbus, Ohio, 8–10–79.
220. South 8 Station, 20705 Southfield, Southfield, Mich. 48075, 8–10–79.
221. 17 Rochester Shell, 3990 Rochester, Troy, Mich., 8–16–79.
222. Nicholas P. Booras, 977 East Big Beaver, Troy, Mich., 8–16–79.
223. Tel-Acacia, 14257 N. Telegraph, Redford, Mich. 48239, 8–14–79.
224. Safiedine Mobil Service, 3951 10 Mile Road, Warren, Mich., 8–16–79.
225. George Brown's Mobil, 1350 West Maple Road, Troy, Mich., 8–16–79.
226. 12th & Ryan Mobil, 3909 East 12 Mile, Warren, Mich. 48092, 8–15–79.
227. Leonard's 10 Mile Marathon, 11650 East 10 Mile, Warren, Mich. 48092, 8–17–79.
228. Aranaki Shell Service, 1555 East Outer Driver, Detroit, Mich. 48234, 8–17–79.
229. Tom's Shell Service, 22411 South Chrysler, Hazel Park, Mich. 48030, 8–16–79.
230. Clark's Taylor, 5858 Telegraph, Taylor, Mich., 8–17–79.
231. Nicklas Music Sr., 3208 North Telegraph & Chicago, Redford, Mich., 8–15–79.
232. Ron Union 76, 3208 West 11 Mile, Berkley, Mich., 8–15–79.
233. Bob Adams Shell, 120 Shunter, Birmingham, Mich. 48011, 8–16–79.
234. Somerset Auto Service Inc., 2790 West Maple, Troy, Mich., 8–16–79.
235. Steve Opatich Sunoco, 2955 Rochester, Troy, Mich., 8–16–79.
236. Abe's Service, 13550 West 9 Mile, Oak Park, Mich. 48237, 8–15–79.
237. Larry Gaioa Service, 107 Lond Road, Duluth, Minn., 8–9–79.
238. Interstate Shell, 201 NW 5th Street, New Brighton, Minn. 55112, 8–14–79.
239. Normandale Mobil, 8331 Normandale Road, Bloomington, Minn., 8–7–79.
240. Excelsior Auto Service, 5720 Excelsior Blvd., Minneapolis, Minn. 55416, 8–8–79.
241. Grotta Union 76, 601 Boone Ave., Golden Valley, Minn., 8–6–79
242. Cedarvale Texaco, Cedarvale Ave. South & Hwy 13, Eagan, Minn. 55122, 8–9–79.
243. Spur General Store, 9200 Avenue South, Bloomington, Minn. 55420, 8–9–79.
244. Bruces Texaco, 4201 Winnerka Ave. N., New Hope, Minn. 55420, 8–8–79.
245. Brown's Standard, Hwys 55 & 101, Chanhassen, Minn. 55317, 8–10–79.
246. Thompson Freeway Standard, 210 South 27th St. W., Duluth, Minn. 55806, 8–10–79.
247. Werner's 4th Street Standard, 601 E. 4th Street, Duluth, Minn. 55805, 8–10–79.
248. Frank's Texaco, 2031 London Road, Duluth, Minn. 55812, 8–9–79.
249. K & W Mobile Station, 27612 VanDyke, Warren, Mich., 8–22–79
250. Blonde's Gulf, 30985 Schoen Herr, Warren, Mich., 8–23–79
251. Ray Hocking Standard, 39025 VanDyke, Sterling Heights, Mich., 8–22–79
252. Mike's Mobil 28999 Schoen Herr, Warren, Mich., 8–23–79
253. John 316 Shell Service, 10415 Grand River, Detroit, Mich., 8–22–79.
254. A. L. Walls Shell Auto Care, 9600 Livernois, Detroit, Mich., 8–22–79.
255. Lodge Sunoco, 15464 Livernois, Detroit, Mich., 8–24–79.
256. Ahmad Essu Mobil, Michigan and Outer Drive, Dearborn, Mich., 8–21–79.
257. Clark Clawson Station, 64 West Rochester Rd., Clawson, Mich., 8–22–79.
258. Leo Tillard's Mobil Center, 1065 East Maple Road, Birmingham, Mich., 8–21–79.
259. Frank's Telegraph & Chicago Shell, 925 N. Telegraph Rd. Redford Township, Mich., 8–24–79.
260. Jerry Rogers 76, 7998 Pontiac, North Bloomfield, Mich., 8–24–79.
261. User Sunoco Service, 26455 Telegraph, Southfield, Mich., 8–24–79.
262. Redmonds Gulf, 689 East 14 Mile Road Clawson, Mich., 8–21–79.
263. S & L M Kapa, 4738 Rochester Road, Royal Oak, Mich., 8–21–79.
264. Birmingham Auto House, 1000 East Maple, Birmingham, Mich., 8–21–79.
265. H.M.I.J. Giroux, 22985 Van Boran Road, Taylor, Mich., 8–24–79.
266. Glenn's Sunoco 10225 Madison Ave., Cleveland, Ohio, 8–15–79.
267. West 25th Street Sunoco, 2675 West 25th Street, Cleveland, Ohio, 8–2379.
268. Ted's Sunoco, 13601 Lorain Avenue, Cleveland, Ohio, 8–24–79.
269. Parkwood Shell, 9501 Brookpark, Parma, Ohio, 8–23–79.
270. R & T's Sohio, 5401 Memphis Ave., Cleveland, Ohio, 8–23–79
271. Cedar-Taylor Sunoco, 13484 Cedar Road, University Heights, Ohio, 8–20–79.
272. West Park Union 76, 3540 West 117th Street, Cleveland, Ohio, 8–21–79
273. Turney-Lee Sunoco, 700 Turney Road, Bedford, Ohio, 8–21–79.
274. Mayor & Son Shell, Routes 306 & 87, Novelty, Ohio, 8–21–79.
275. Bailey's Amoco Service, 5038 Carpenter Road, Ashtabula, Ohio, 8–23–79.
276. Miller's Amoco, 1123 Lake Ave., Ashtabaula, Ohio, 8–23–79.
277. Bailey's Sunoco, 3510 East 116th Street, Cleveland, Ohio, 8–24–79.
278. Best Car Wash (Gulf) 715 Carnegie, Cleveland, Ohio, 8–14–79.
279. Booth's Marathon Service, 1015 Main, Miamisburg, Ohio, 8–23–79.
280. Ted's Shell, 5307 W. Western, Southbend, Ind., 8–22–79.
281. Romine Sunoco, 5307 North Main Bourbon, Ind., 8–22–79.
282. Northside Shell Car Wash, 1506 Nicassopulis, Elkhart, Ind., 8–23–79.
283. Dairyland Shell, 1811 Memorial Drive, New Castle, Ind., 8–17–79.
284. Romer Oil, 9801 W. Florisant, St. Louis, Mo., 8–24–79.
285. Executive Leasing, 7000 Wayzata Blvd., Golden Valley, Minn., 8–17–79.
286. Jerry's Downtown Shell, 1 North Broadway, Rochester, Minn., 8–21–79.
287. Jack's Texaco, 625 N. Broadway, Rochester, Minn., 8–21–79.
288. Clark Super 100, 159th & 80th Avenue, Orland Park, Ill., 8–31–79.
289. George's Standard Quick Six, 162nd & Ellis, South Holland, Ill., 8–31–79.
290. Venture Shell, 96th & 159th, Orland Park, Ill., 8–31–79.
291. Elston & Kostner Service, 4721 North Elston, Chicago, Ill., 8–31–79.
292. Downtown Auto & Truck Service, 714 West Van Buren, Chicago, Ill., 8–31–79.
293. Winfrey Standard Station, 8058 South Cottage Grove, Chicago, Ill., 8–31–79.
294. Charles Eddy Big 2 Super Shell, 2941 East 83rd Street, Chicago, Ill., 8–31–79.
295. McCurry & Sons Sunoco, 540 South Main Street, Clawson, Mich., 8–28–79.
296. 12 Mile & Main Sunoco, 1735 North Main, Royal Oak, Mich., 8–28–79.
297. Bashi Shell Service, 19402 Woodward/Ralston, Detroit, Mich., 8–30–79.
298. Walter Brown/Brown's Service, 14530 West McNichols, Detroit, Mich., 8–31–79.
299. Al Pagley's Marathon, 1925 Auburn, Utica, Mich., 8–28–79.
300. Wayne Lockard Ent.—Shell Service, 1015 East Auburn Road, Rochester, Mich., 8–28–79.
301. Flintex Oil Co.—Texaco, 3250 Auburn Road, Rochester, Mich., 8–28–79.
302. Zoufal's Standard, 100 West University Rd., Rochester, Mich., 8–28–79.
303. Mike's Mobil, 28890 Gratiot, Roseville, Mich., 8–30–79.
304. Reynolds West Main Mobil, 4408 West Main Street, Kalamazoo, Mich., 8–30–79.
305. Bob's Country Store, 2103 Horton Road, Jackson, Mich., 8–29–79.
306. Johnson's Amoco, 4700 Bircher, St. Louis, Mo., 8–28–79.

307. Eaton's 66, 602 East High, Potosi, Mo., 8–30–79.
308. Ebo Store, Route 1 Potosi, Mo., 8–30–79.
309. Rouggly Shell, Hwys 67 & 47, Bonne Terre, Mo., 8–30–79
310. Redwing Conoco 4747 O Street, Lincoln, Nebr., 8–31–79
311. Kraft & Sons Inc. 17th & Vine, Lincoln, Nebr., 8–31–79
312. Price's DX, 403 West Missouri, Bellevue, Nebr., 8–31–79
313. Cliff's 66, 1720 Galvin Road, Bellvue, Nebr., 8–31–79
314. Jim's Conoco, 122 West Main, Bellvue, Nebr., 8–31–79
315. Charlie Cox Texaco 701 North Fort Crook Road, Bellvue Nebr., 8–31–79.
316. Broadview & Grantwood Sunoco, 6138 Broadview Road, Parma, Ohio, 8–27–79.
317. Cypress Union 76 4563 Pearl Road, Cleveland, Ohio, 8–27–79
318. West Park Shell 13960 Lorain Avenue, Cleveland, Ohio 8–28–79
319. Tom's Sunoco, 2883 State Route 18, Medina, Ohio, 8–28–79
320. Sam's Amoco, 2601 Airport Highway, Toledo, Ohio, 8–30–79
321. Gene's Shell, 1570 Harding Highway, Lima, Ohio, 8–30–79
322. Gallagher Shell Service, 11701 Clifton Blvd., Lakewood, Ohio, 8–31–79.
323. Jeffer's Sunoco, 6200 Canal Road, Valley View, Ohio, 8–31–79
324. New Nu Investments, 1106 Shroyer, Dayton, Ohio, 8–30–79
325. Downtown Shell, 300 Wayne Ave., Dayton, Ohio, 8–30–79
326. Forest Park Texaco, 12136 Winton Road, Cincinnati, Ohio, 8–28–79.
327. Peter Bezek's Exxon Service, 1111 South Smithville, Dayton, Ohio, 8–28–79.
328. Floyd's Exxon, I–70 & US 95 West, Mt. Gilead, Ohio, 8–29–79
329. Gary's Shell, 415 Dixieway, Southbend, Ind., 8–29–79.
330. D & J Mobil, 1004 North Main, Royal Oak, Mich., 8–28–79
331. Swan Oil, I–94 Exit 30, Benton Harbor, Mich., 8–31–79
332. Swan Oil, Cass (31st & Ferry), Berrien Springs, Mich., 8–31–79.
333. Swan Oil, South Red Arrow Hwy, Stevensville, Mich., 8–31–79.
334. Oasis Service Center, P.O. Box 765, Westville, Ind., 8–30–79.

[FR Doc. 79–31482 Filed 10–11–79; 8:45 am]
BILLING CODE 6450–01–M

Advance Brake and Tune-Up System; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Advance Brake and Tune-Up System, 698 San Antonio Road, Palo Alto, CA 94303. This Proposed Remedial Order charges Advance Brake and Tune-Up System with pricing violations in the amount of $3,076.72, connected with the resale of motor gasoline during the time period August 1, 1979 through August 30, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, phone (415) 556–7200. On or before October 29, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in San Francisco, CA, on the 25th day of September.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79–31485 Filed 10–11–79; 8:45 am]
BILLING CODE 6450–01–M

Beacon Oil Co.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Consent Order and Opportunity for Comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order and provides an opportunity for public comment on the proposed Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: September 10, 1979.

COMMENTS BY: November 13, 1979.

ADDRESS: Send comments to Jack L. Wood, District Manager of Enforcement, Western District, 111 Pine Street, San Francisco, California 94111.

FOR FURTHER INFORMATION CONTACT: Jack L. Wood, District Manager of Enforcement, Western District, 111 Pine Street, 4th Floor, San Francisco, California 94111 [phone (415) 556–7157].

SUPPLEMENTARY INFORMATION: On September 10, 1979, the Office of Enforcement of the ERA executed a proposed Consent Order with Beacon Oil Company of Hanford, California. Under 10 CFR 215.199J(b), a proposed Consent Order which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest, becomes effective only after the DOE has received comments with respect to the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance, and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

Beacon Oil Company, of Hanford, California, is a firm engaged in, among other things, the refining of crude oil and the marketing of motor gasoline, residual fuel oil, middle distillates, jet fuel, and other refined petroleum products, and is subject to the Mandatory Petroleum Allocation and Price Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Beacon, the ERA Office of Enforcement, and Beacon entered into a Consent Order, the significant terms of which are as follows:

1. The Office of Enforcement has examined Beacon's books and records and reviewed pertinent matters relating to Beacon's compliance with the DOE petroleum price regulations in effect during the period from August 19, 1973 through March 1975. Matters pertaining to compliance with the DOE petroleum price regulations and prices charged by Beacon in sales of covered products other than crude oil during the period August 19, 1973 through March 1975, are resolved by this Consent Order.

2. Beacon will refund to its purchasers a total of $6,800,000, apportioned as follows:

Motor gasoline	$3,940,655
No. 2 oils	1,816,464
Light fuel oil	111,288
Heavy fuel oil	614,581
JP–5	262,114
Low sulphur fuel oil	54,898
Total	6,800,000

3. Execution of the Consent Order constitutes neither an admission by Beacon nor a finding by DOE that Beacon has violated any statutes or applicable regulations of the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration or the Department of Energy.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Beacon agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the ERA Office of Enforcement, arising out of the transactions specified in I. 1 above, the sum of $6,800,000 within eighteen months from the date when the Consent Order becomes effective. The refund will be made as follows:

(a) With respect to identified ultimate consumers who purchased motor gasoline directly from Beacon other than through company-operated service stations, Beacon will refund $11,803 by issuing checks to these consumers within thirty days of the effective date of the Consent Order. If the refund due a current customer is greater than $500, Beacon will issue a credit memorandum to the consumer.

(b) With respect to ultimate consumers who purchased motor gasoline through company-operated service stations, Beacon will refund $670,616 by reducing its selling prices by not less than two cents per gallon nor more than five cents per gallon in sales made through company-operated service stations.

(c) With respect to purchasers of motor gasoline other than ultimate consumers, Beacon will refund a total of $3,259,072. If the purchaser is a current customer of Beacon, Beacon will issue a credit memorandum to the customer; if the purchaser is an ex-customer, Beacon will pay the amount to DOE for appropriate distribution.

(d) With respect to identified ultimate consumers who purchased No. 2 oils, light fuel oil, heavy fuel oil, JP–5, or low sulphur fuel oil direclty from Beacon other than through company-operated service stations, Beacon will refund $1,117,590 by issuing checks to these consumers within 30 days of the effective date of the Consent Order. If the refund due a current customer is greater than $500, Beacon will issue a credit memorandum to the customer.

(e) With respect to purchasers, other than ultimate consumers, of No. 2 oils, light fuel oil, heavy fuel oil, JP–5, and low sulphur fuel oil, Beacon will pay $1,742,342 to DOE for appropriate distribution. Beginning the month during which this Consent Order becomes effective, Beacon will each month for eighteen consecutive months pay to DOE the amount of $96,797.

(f) Each credit memorandum issued pursuant to this Consent Order will be issued to the customer in the full amount of the refund, and will be issued within thirty days of the effective date of this Consent Order. Each credit memorandum will be effective over a period not to exceed eighteen months, and will be applied by Beacon at a rate not less than two cents per gallon nor more than five cents per gallon for each gallon purchased by the customer during the eighteen-month period. If at the end of the eighteen-month period an identified ultimate consumer has an unused credit, the unrefunded amount will be paid to the customer in cash within thirty days after the expiration of the eighteen-month period. If at the end of the eighteen-month period, a purchaser other than an ultimate consumer has an unused credit, the unrefunded amount will be paid to DOE within thirty days of the expiration of the eighteen-month period for appropriate distribution.

(g) In the event that the pricing of motor gasoline is exempted from the provisions of the DOE petroleum pricing regulations during the eighteen-month period, any amounts to be refunded under paragraphs II. (b) and (c) that have not been refunded as of the date of exemption will be paid to DOE for appropriate distribution.

Amounts paid to DOE for distribution will remain in a suitable account pending the determination of the proper distribution. The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, overcharges may have been passed through as higher prices to subsequent purchasers. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants.* Interested persons who believe that they have a claim to all or a portion of the refund amount described in paragraphs II.(c) (ex-customers only) and (e) should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Jack L. Wood, District Manager of Enforcement, Western District, 111 Pine Street, San Francisco, California 94111. You may obtain a free copy of this Consent Order by writing to the same address or by calling (415) 556–7157.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Beacon Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on November 13, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in San Francisco on the 10th day of September, 1979.

Jack L. Wood,

District Manager of Enforcement.

[FR Doc. 79-31481 Filed 10-11-79; 8:45 am]

BILLING CODE 6450-01-M

Bud Dietrich's Orinda Shell; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Bud Dietrich's Orinda Shell, #9 Orinda Way, Orinda, CA 94563. This Proposed Remedial Order charges Bud Dietrich's Orinda Shell with pricing violations in the amount of $5,398.24, connected with the resale of motor gasoline during the time period August 1, 1979 through September 18, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, phone (415) 556–7200. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in San Francisco, CA, on the 26 day of September.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-31487 Filed 10-11-79; 8:45 am]

BILLING CODE 6450-01-M

Cool Fuel Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Cool Fuel Incorporated, 6300 East Alondra Blvd., Paramount, CA 90723. This Proposed Remedial Order charges Cool with pricing violations in the amount of $288,338.96 connected with the resale of fuel oil during the time period October 1, 1973, through March 31, 1976, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, phone 415 556–7200. On or before October 29, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461 in accordance with 10 CFR 205.193.

Issued in Washington, D.C., on the 4th day of October 1979.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-31483 Filed 10-11-79; 8:45 am]

BILLING CODE 6450-01-M

Crescent Refining & Oil Co., Petroleum Fuel Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Crescent Refining & Oil Company; Petroleum Fuel Company (Crescent), 2404 East 28th Street, Los Angeles, CA 90058. This Proposed Remedial Order charges Crescent with pricing violations in the amount of $514,454.03 connected with the resale of fuel oil during the time period September 1, 1973, through October 31, 1975, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, phone 415 556–7299. On or before October 29, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C. on the 4th day of October, 1979.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-31484 Filed 10-11-79; 8:45 am]

BILLING CODE 6450-01-M

Vic & Lou's Union; Proposal Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Vic & Lou's Union, 1300 Davis Street, San Leandro, CA. This Proposed Remedial Order charges Vic & Lou's Union with pricing violations in the amount of $629.04, connected with the resale of motor gasoline during the time period August 1, 1979 through August 10, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, phone (415) 556–7200. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in San Francisco, CA, on the 20th day of September.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-31486 Filed 10-11-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50441A; FRL 1336-6]

Issuance of Experimental Use Permit; Correction

On Monday, September 17, 1979 (44 FR 53786), information appeared pertaining to the issuance of an experimental use permit, No. 7946-EUP-5, J. J. Mauget Co., Inc. This should have been published as an amendment to the permit. This amendment allows the use of 90 pounds, in total, of the fungicide (2-diethoxy)ethyl benzimidazole carbamate on American elms to evaluate control of Dutch elm disease. A total of 11,649 trees are involved; the program is authorized only in the States of Alabama, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wisconsin, and the District of Columbia. The experimental use permit is effective from October 3, 1977 to October 3, 1979. (PM–21, Henry Jacoby, Room: E–305, Telephone: 202/755–2562).

Dated: October 5, 1979.

Herbert S. Harrison,

Acting Director, Registration Division.

[FR Doc. 79-31564 Filed 10-11-79; 8:45 am]

BILLING CODE 6560-01-M

Science Advisory Board Ecology Committee; Open Meeting

Under Public Law 92–463, notice is hereby given that a meeting of the Ecology Committee of the Science Advisory Board will be held on October 29 and 30, 1979, beginning at 9:00 a.m., October 29, in the Administrator's Conference Room, Room 1101, West Tower, Waterside Mall, 401 M Street, S.W., Washington, D.C.

This is the twentieth meeting of the Ecology Committee. The Agenda includes a report on Science Advisory Board activities; consideration of the Task Group's draft report, "Goals of and Criteria for Design of a Biological Monitoring System;" an update on the Agency's Acid Precipitation Research Program; a briefing on the Agency's use of microcosms in research; and member items of interest.

The meeting is open to the public. Because of the limited seating capacity of the meeting room, all members of the public desiring to attend must preregister no later than October 23, 1979, and receive a confirmed reservation from Dr. J. Frances Allen, Executive Secretary, Ecology Committee, or Ms. Anita Najera (202) 472–9444.

Dated: October 11, 1979.

Richard M. Dowd,

Staff Director, Science Advisory Board.

[FR Doc. 79-31565 Filed 10-11-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1335-8]

Regulation of Fuel and Fuel Additives; MMT—Lifting of Suspension of Enforcement

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) reaffirms the October 1, 1979 date for recommencement of enforcement of the ban on methylcyclopentadienyl manganese tricarbonyl (MMT).

FOR FURTHER INFORMATION CONTACT: Thomas E. Moore, Attorney-Advisor, Environmental Protection Agency at (202) 472-9367.

SUPPLEMENTARY INFORMATION: On June 5, 1979, EPA published a notice [44 FR 32281], which announced a temporary, limited suspension of enforcement of the ban on MMT under section 211(f)(3) of the Clean Air Act, as amended, 42 U.S.C. 7545(f)(3). The suspension of enforcement allowed MMT use in unleaded gasoline up to a concentration of 1/32 gram per gallon (gpg) until October 1, 1979. That action was taken to give refiners the flexibility to shift a substantial percentage of gasoline production to unleaded gasoline. It was hoped this would assist in preventing shortages of unleaded gasoline and thus reduce possible levels of fuel switching. Since the notice was published, EPA has received a number of inquiries as to whether the October 1, 1979, date is firm as to what fuel and fuel additive manufacturers are prohibited from doing so on and after October 1, 1979 (e.g., blending gasoline with MMT, distributing gasoline with MMT, or selling gasoline with MMT at the pump).

Section 211(f)(3) of the Clean Air Act requires that fuel and fuel additive manufacturers cease to distribute a proscribed fuel or fuel additive in commerce. Enforcement of the ban on distributing in commerce unleaded gasoline containing MMT will recommence October 1, 1979. We do not expect this recommencement of enforcement to have a significant impact on unleaded gasoline supplies. A survey of the industry and the sole MMT supplier indicates that MMT was not used this summer by refiners producing over one-half the nation's gasoline, and was used by other refiners at an average of about 1/40 gpg, below the maximum level of 1/32 gpg. MMT use was being phased out during the month of September 1979, without any substantial negative impact on unleaded gasoline supply.

Unleaded gasoline supplies that were manufactured with MMT prior to October 1, 1979, and are still in storage or in transit (in pipelines, barges, etc.) after October 1, 1979, should be made available to the public. To not allow distribution of these unleaded supplies would be contrary to EPA's concern that adequate unleaded supplies be available to prevent fuel switching to leaded gasoline. Therefore, in order to prevent potential dislocation in the marketing of unleaded gasoline containing MMT which was manufactured prior to October 1, 1979, this gasoline may be distributed to the public.

Dated: October 5, 1979.

Douglas M. Costle,

Administrator.

[FR Doc. 79-31563 Filed 10-11-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1336-8]

Guidelines for the Administration of the Lead Phase-Down Regulations and Ban on the Use of MMT

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: This notice establishes guidelines for administration of the statutory ban on the use of methylcyclopentadienyl manganese tricarbonyl (MMT) in unleaded gasoline, and for administration of the regulations establishing the maximum allowable average lead content in gasoline.

DATES: These guidelines are effective immediately. However, revisions will be considered based upon comments received on or before November 13, 1979.

ADDRESS: Comments should be sent to: Director, Field Operations and Support Division (EN-340), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Thomas Moore, Fuels Section, Field Operations and Support Division (202) 472-9367.

SUPPLEMENTARY INFORMATION:

Background

Section 211 of the Clean Air Act (Act), 42 U.S.C. 7545, establishes the authority for the Administrator of the Environmental Protection Agency to regulate the use of certain fuels and fuel additives. Section 211(d) of the Act provides for a civil penalty of up to $10,000 per day for violation of sections 211(a), 211(f), or regulations under section 211(c). The purpose of these guidelines is to establish enforcement guidelines for lead phase-down regulations (40 CFR 80.20) promulgated pursuant to section 211(c), and for the ban on the use of MMT pursuant to section 211(f).

Under section 211(c), the Administrator may regulate fuel additives if he determines that the additives will impair to a significant degree the performance of any emission control device or system which is in general use or which will be used in the future. Under this authority, the Administrator promulgated regulations on January 10, 1973, which require the availability of lead-free gasoline for cars equipped with catalytic converters, and set out requirements for maximum lead content in unleaded gasoline, prohibitions on introducing leaded gasoline into vehicles requiring unleaded fuel, and associated regulatory requirements to prevent inadvertent use of leaded gasoline in vehicles requiring unleaded fuel (40 CFR Part 80). On August 29, 1975, guidelines for the assessment of civil penalties for violation of these unleaded gasoline regulations were published (40 FR 39973). To date, those are the only enforcement guidelines which have been published for violations of section 211 of the Act.

Under section 211(c) of the Act, the Administrator of the EPA may regulate a fuel additive if, in his judgment, the additive causes or contributes to air pollution which may reasonably be anticipated to endanger the public health or welfare. Because airborne lead from auto emissions was determined to endanger the public health, regulations (40 CFR 80.20) requiring the phased reduction of lead from gasoline were promulgated on December 6, 1973 (38 FR 33734).

On March 19, 1976, the Circuit Court of Appeals for the District of Columbia Circuit upheld the lead phase-down regulations, *Ethyl Corp.* v. *EPA*, 541 F. 2d 1 (D.C. Cir. 1976). However, in order to provide refineries additional time to comply with the lead standards, the phase-down schedule was revised on September 28, 1976 (41 FR 42675). The revised schedule required each refiner to meet a 0.8 gram of lead per gallon of gasoline (gpg) quarterly standard effective by January 1, 1978, and a 0.5 gpg standard by October 1, 1979. The revised regulations also provided for suspensions of the 0.8 gpg standard for any refiner which could make the showing that it has, prior to January 1, 1978, made and is continuing to make, reasonable good faith efforts to achieve compliance with the 0.8 gpg standard at the earliest practicable date and compliance with the 0.5 gpg standard on or before October 1, 1979.

These regulations were further revised on September 12, 1979 (44 FR 53144). A refiner, for any refinery not subject to standards as a small refinery, may elect to meet a 0.5 gpg standard effective October 1, 1979. Alternatively, a refiner may elect (for all or some of its refineries) to meet a 0.8 gpg standard for

each quarter October 1, 1979, through September 30, 1980, and a 0.5 gpg standard effective October 1, 1980. Refiners choosing the latter option must produce, at each refinery subject to this option or in aggregate at all such refineries, a percentage of unleaded gasoline to total gasoline either greater than 45%, or at least 6 percentage points higher than the previous year.

On August 7, 1979 (44 FR 46275), EPA promulgated lead standards applicable to small refineries, as required by section 211(g) of the Clean Air act, as amended.

Section 211(f) of the Act prohibits the use of certain fuels or fuel additives after September 15, 1978, unless the Administrator waives the prohibition. In order to obtain a waiver, an applicant must show that the fuel or fuel additive does not cause or contribute to the failure of any emission control device or system to achieve compliance by the vehicle with emission standards. Under this provision, the Administrator denied the MMT waiver request by the Ethyl Corporation on September 12, 1978, since it was not shown that MMT use in unleaded gasoline did not cause or contribute to an increase in hydrocarbon emissions. Therefore, the use of MMT as a fuel additive in unleaded gasoline is prohibited.

On June 5, 1979, EPA suspended enforcement of the ban on the use of MMT in unleaded gasoline until October 1, 1979 (44 FR 33281). That action was taken to give refiners the flexibility this summer to shift a percentage of gasoline from the leaded pool to the unleaded pool. EPA recommended enforcement of the ban on MMT use in unleaded gasoline on October 1, 1979.

Lead Phase-Down Administration Policy

The Act and the lead phase-down regulations provide that the penalty for non-compliance with the regulations shall be $10,000 for each and every day of the continuance of such violation. However, the regulations also provide that the phase-down standards are quarterly (three-month periods) standards; i.e., compliance is determined by dividing the total weight of lead alkyl, reduce to lead, used by the refinery by the total gasoline production (both leaded and unleaded) produced by the refinery in that quarter. This period was established to accommodate the refinery industry's need for some reasonable period over which lead usage could be averaged so that short-term fluctuations in lead usage would not result in violations of the standards. Further, the monitoring requirements to assure compliance with the standard would be substantially complicated if the averaging period is reduced.

To be consistent with the standard, any penalty assessment will be determined on the basis of quarterly averaging of lead usage at a refinery. Thus, using the maximum per day penalty of $10,000, the maximum penalty per refinery for a quarter in which the standard is exceeded would be $10,000 times the number of days in that quarter, or approximately $900,000 (i.e., $10,000/day × 90 days/quarter).

Penalty Calculation

Penalties for non-compliance will be composed of two components, a deterrent factor (DF) and a benefit of non-compliance factor (NCF).

The DF for violation of a regulation or standard will be based upon the total number of previous violations of that regulation or standard in accordance with the schedule below:

Violations in previous quarters by refiner	Deterrent factor (dollars)
0	50,000
1	100,000
2	150,000
3 or more	200,000

The DF is sized so that multi-million dollar companies will be deterred from exceeding the lead standard and induced to take immediate corrective action to overcome upsets and resulting downtime that may lead to the need to use lead to maintain production volume. A violation of a lead standard at, for example, two refineries will be considered as two violations by the refiner. A violation of any unleaded gasoline production requirements at any or all registered refineries will be considered as one violation for the quarter.

The NCF is calculated by estimating the difference between the cost of processing a gallon of gasoline to the desired octane level [1] without lead in excess of the standards and the cost of making a gallon of gasoline of the same octane by adding excess lead.

The actual cost differential for a particular refinery could depend on many factors, including:

—Capital costs saved by not installing appropriate octane generating units to achieve the lead phase-down standards,

—Chemical characteristics of the feedstock processed, and

—Refinery processing configuration.

However, in computing the benefit of non-compliance, EPA has only considered marginal cost due to reforming when processing a gallon of gasoline to a higher octane level and a general capital cost factor. Considerations of crude slates, feedstocks, and capital costs due to specific refinery configurations were not included in assessment of the benefit of non-compliance for the following reasons:

(1) More EPA resources would be required to make refinery-by-refinery determinations as to what capital expenditures should have been made. This would not only be resource intensive for EPA, but would be technically difficult.

(2) Since crude slates and feedstocks usually change over time, it would require continuous updating and extensive record-keeping to implement this approach. Further, it would be difficult to assign cost factors associated with the variety of refinery inputs over a period of time.

(3) Since capital and input costs are variable, the industry would have no basis for knowing what size of penalty would accrue as a result of non-compliance. This may induce a refiner to use more lead than permitted on the gamble that he could persuade EPA that the benefit of non-compliance was low.

Further, it would be difficult to justify a benefit of non-compliance penalty for one refiner that was higher than one assessed against a competitor for the same magnitude of violation.

Penalty Calculations for Non-Compliance With a Lead Standard Only

This section is applicable in a quarter during the period October 1, 1979 to September 30, 1980, in which a refiner has not registered for the relaxed standard (Option 2) for that quarter, and for all refiners after September 30, 1980.

The NCF for violation of a lead standard only is calculated according to the following formula:

NCF = (y–A) × 0.0075 × Z where,

Y = quarterly pool lead average at a refinery in grams per gallon

A = applicable maximum lead standard for a refinery in grams per gallon

0.0075 = cost differential in dollars per gram

Z = total number of gallons of gasoline produced by the refinery during that quarter.

The derivation of the NCF factor is in Appendix B.

Total Penalty = DF + NCF. The total penalty assessed under each regulation cannot exceed $10,000 per day × days/quarter.

[1] Octane is the measure of resistance to engine knock for a given gasoline. As the octane level increases, so does the resistance to knock.

Penalty Calculation for Non-Compliance With the Unleaded Gasoline Production Requirements Only

This section is applicable to those refiners who have registered for Option 2 of the relaxed lead phase-down regulations for any quarter between October 1, 1979 and September 30, 1980, who comply with the applicable 0.8 gpg standard, but who fail to produce the required unleaded gasoline production as a present of total production. If a refiner was to comply with the unleaded gasoline production requirements, either for each registered refinery, or in aggregate for all registered refineries, and one or more of its registered refineries did not comply with the 0.8 gpg lead standard, the NCF would be calculated from the difference between the quarterly pool lead average for each registered refinery not in compliance and the 0.8 gpg standard using the NCF formula of the preceding section. If the refiner was to fall short of the required production requirements, he would then, for the purposes of calculation, be subject to the 0.5 gpg pool lead standard. The NCF penalty in this case would be equal to the benefit of non-compliance with the 0.5 gpg standard as outlined in the previous section multiplied by one-sixth the difference between the required unleaded gasoline aggregate production percentage and the actual unleaded gasoline aggregate production percentage (rounded to the nearest one-tenth). This, in effect, reduces the NCF penalty for increased unleaded gasoline production which falls short of meeting the required level.

The NCF for a violation of the unleaded gasoline production requirements is calculated for each refinery according to the following formula:

$NCF = (y-0.5) \times 0.0075 \times Z \times (R-P) \times \frac{1}{6}$

where,

y = quarterly pool lead aveage at a refinery in grams per gallon

0.5 = applicable maximum lead standard for a refinery in non-compliance with production requirements in grams per gallon

Z = total number of gallons of gasoline produced by the refinery during that quarter

R = aggregate unleaded gasoline production as a percent of total gasoline production for those registred refineries as required for registration under Option 2

P = aggregate unleaded gasoline production as a percent of total aggregate gasoline production actually produced during the applicable quarter by the registered refineries.

Penalty Calculation for Non-Compliance With the Unleaded Gasoline Production Requirements and the 0.8 gpg Lead Standard

This section is applicable to those refiners who have registered for Option 2 of the relaxed lead phase-down regulations for any quarter between October 1, 1979 and September 30, 1980, who are in non-compliance with the applicable 0.8 gpg standard, and who fail to produce the required unleaded gasoline production as a percent of total production. The penalty in this case is calculated in two parts. The first part is the penalty for non-compliance with the unleaded gasoline production requirements as outlined in the previous section (NCF_1).

The DF for non-compliance with unleaded gasoline production requirements is based on the total number of previous quarterly violations of the production requirements (DF_1).

The second part of the penalty is for non-compliance with the 0.8 gpg standard (NCF_2). The NCF_2 would be calculated from the difference between the quarterly average lead use at the refinery and the 0.8 gpg standard. The DF for non-compliance with the lead standard is based on the total number of previous quarterly lead violations (DF_2).

$$\begin{aligned}\text{Total Penalty} &= NCF_1 + NFC_2 + DF_1 + DF_2 \\ &= (y-0.5) \times 0.0075 \times Z \times (R-P) \times 1/6 \\ &+ (y-0.8) \times 0.0075 \times Z \\ &+ DF_1 \\ &+ DF_2\end{aligned}$$

Penalty Mitigation

(1) *Action Taken to Remedy the Violation.* The DF can be mitigated based on action taken to remedy the violation. Consideration will be given to those immediate efforts which a refiner took to eliminate the circumstances which caused the violation. Such efforts may include the repair or replacement of malfunctioning equipment, the purchase of blending components or feedstocks, the short-term construction of additional facilities, and similar refiner actions. Consideration would also be given to the length of downtime, how quickly repairs were made, and the level of commitment to effect repairs (i.e., overtime operations, financial investment).

Only corrective efforts implemented during the quarter during which the violation occurred or the succeeding quarter may be considered. Any long-term construction projects not directly associated with the upset will not be a mitigating factor since such construction should have been completed in anticipation of the lead phase-down program. In addition, reduction of gasoline production as a means of complying with the lead standard does not comply with the intent of the lead phase-down program, and therefore reduction of gasoline production to achieve compliance in the quarter succeeding the quarter of violation would not be acceptable as a corrective effort qualifying a refinery for mitigation of a penalty.

Based on this criterion, the complainant may mitigate the DF of the proposed penalty to 60% of the proposed value. Such actions, however, may not be used to mitigate any part of the NCF of the penalty.

(2) *Inability to Continue in Business and Severe Economic Hardship.* Mitigation of the total penalty by up to 100% of its value may be obtained upon consideration of the effect the penalty will have upon the respondent's ability to continue in business. The burden of persuasion rests with the respondent. The following certified statements must accompany a claim of inability to continue in business or severe economic hardship: (a) A cash and earnings requirements statement, (b) an updated income statement, and (c) an updated balance sheet. The complainant may mitigate the penalty only if an analysis by EPA or outside consultants of the certified financial report of the business in question indicates that the penalty would cause the business to terminate or face severe financial hardship.

(3) *Special Circumstances.* Should a case arise in which the complainant believes that equity cannot be served by adjusting the penalty within the limitations described above, he may make an extraordinary adjustment in the proposed penalty. Any application for such extraordinary relief should state with particularity: (1) The facts of the case, (2) why the penalty provided by the Penalty Assessment formulae would be inequitable, (3) why the criteria for adjusting the unadjusted penalty are insufficient, and (4) how the public interest would be protected by such an extraordinary adjustment in the penalty.

Exceptions to Liability

(1) *Substantial Loss of Refining Capacity Caused by Natural Disaster or Catastrophic Occurrence.* The complainant may elect to hold a refiner free from liability for exceeding the lead standard or not meeting the unleaded gasoline production requirement based upon a showing that the excess lead usage or lower unleaded gasoline production resulted from natural disasters, such as floods or tornadoes, or other catastrophic occurrences resulting in substantial loss of refining capacity. The burden is on the

respondent to show that it was a natural disaster or catastrophic occurrence totally beyond the refiner's control that actually caused the noncompliance with the lead standard or production requirement. Short of a complete showing that the natural disaster or catastrophic occurrence alone created the situation resulting in increased use of lead or reduced unleaded gasoline production, the complainant may propose a penalty but may mitigate the total penalty up to 100% of its value.

(2) *Delay in Construction Plans by Governmental Action.* The complainant may also elect to hold a refiner free from liability for exceeding the lead standard or failing to meet the unleaded gasoline production requirement in a very limited situation for delays in long-term type construction notwithstanding the statement above that long-term construction is not a basis for mitigation. The following criteria will be used to determine whether there is a total absence of liability for exceeding the lead standard or not meeting the production requirement or, for situations where there is not a showing that the delay is solely caused by Government action, the extent of mitigation:

(i) The refiner has made substantial progress, in the form of equipment orders, financial commitments, and detailed engineering, on the refinery construction program; and

(ii) As a direct result of action or inaction by governmental authority beyond the reasonable control of the refiner, the construction program will be significantly delayed; and

(iii) The refiner will be unable to meet the limitations of 40 CFR 80.20 without changing its operations to produce substantially less gasoline while the refinery construction program remains unfinished.

MMT Administration Policy

The Act provides for a $10,000 per day penalty for violations of section 211(f). This section prohibits the use of certain fuels or fuel additives unless a waiver is granted by the Administrator. Since the use of MMT as a fuel additive in unleaded gasoline is now prohibited, distribution into commerce of unleaded gasoline containing MMT is subject to a maximum penalty of $10,000 for each day of such violation.

A violation of the MMT ban is similar to a violation of the restriction on the lead content of unleaded gasoline. We are, therefore, amending the guidelines (40 FR 39973) which establish penalties for lead and phosphorous contamination of unleaded gasoline to include penalties for the use of MMT in unleaded gasoline.

The present guidelines set an assessed penalty on the:

Gravity of the violations,

Number of previous violations, and

Size of the violator's business.

The violation is designated as a schedule 1 through 7 violation, depending upon the gravity. We are hereby designating distribution of MMT-contaminated unleaded gasoline as a schedule 2 violation (the same as a lead-contamination violation). For a first-time violator, penalities of $500 to $7,000 could be assessed depending on the size of business and the degree of contamination. This matrix appears at 40 FR 39976 (August 29, 1975), and is reproduced at Appendix C.

The guidelines for assessment of penalties under the unleaded gasoline program also provide for mitigation of the penalty based on remedial action, severe economic hardship, or special circumstances. These guidelines are also applicable to violation of the ban on MMT usage.

Dated: October 5, 1979.

Joan Z. Bernstein,

Acting Assistant Administrator for Enforcement.

BILLING CODE 6560-01-M

APPENDIX A

EXAMPLES OF PENALTY CALCULATIONS

Following are sample calculations of the penalty assessed under the given conditions:

Example A (Violation of Lead Standard Only): Refinery X of 160,000 barrels per calendar day crude capacity belonging to Refiner Y reports a quarterly lead average for the January-March 1981 quarter of 0.55 gram per gallon. Y has 2 prior violations of the lead standards. During the January-March 1981 quarter, X produced 300,000,000 gallons of gasoline.

(1) Penalty = DF + NCF

= $150,000 + (0.55 - 0.50) x (0.0075) x 300,000,000

= $150,000 + $112,500

Penalty = $262,500

Based on Y's submittal of mitigating circumstances at X, EPA allows mitigation of the DF to 60% of the proposed value:

(2) Penalty = (60%) ($150,000) +

(0.55 - 0.50) x (0.0075) x 300,000,000

= $90,000 + $112,500

= $202,500

Example B (Violation of Unleaded Production Requirements Only): Refinery A and Refinery B, both of 100,000 barrels per day certified crude capacity belonging to Refiner N produced in January-March 1979 quarter an aggregate 25.0% of total gasoline

production as unleaded gasoline. The refiner registered both of its refineries under Option 2 of the relaxed phase-down rule for the January-March, 1980 quarter, thereby committing its production facilities to produce in aggregate 31.0% of total gasoline production as unleaded gasoline in compliance with a 0.8 gpg lead standard.

However, during the January-March, 1980 quarter Refiner N produced only 30.0% of its total gasoline production as unleaded gasoline aggregated over both refineries. Refineries A and B reported quarterly lead averages during this quarter of 0.7 gpg and 0.8 gpg respectively. N has no production violations in previous quarters. During the January-March 1980 quarter each refinery produced 200,000,000 gallons of gasoline.

Total Penalty = DF + NCF (Refinery A) + NCF (Refinery B)

(1) NCF (Refinery A) = $(y-0.5) \times 0.0075 \times Z \times (R-P) \times 1/6$

$= (0.75-0.5) \times 0.0075 \times 200,000,000 \times (31.0-30.0) \times 1/6$

$= \$62,500$

Likewise,

(2) NCF (Refinery B) = $(y-0.5) \times 0.0075 \times Z \times (R-P) \times 1/6$

$= (0.8-0.5) \times 0.0075 \times 200,000,000 \times (31.0-30.0) \times 1/6$

$= \$75,000$

(3) Since Refiner N has no production violations in previous quarters:

DF = $50,000

(4) Total Penalty = DF + NCF (Refinery A) + NCF (Refinery B)

= $50,000 + $62,500 + $75,000

Total Penalty = $187,500

Example C (Violation of Lead Standard and Production Requirements): Refinery A and Refinery B, both of 100,000 barrels per day certified crude capacity belonging to Refiner N produced in January-March 1979 quarter an aggregate 25.0% of total gasoline production as unleaded gasoline. Refiner N registered both of its refineries under Option 2 of the relaxed phase-down rule for the January-March, 1980 quarter, thereby committing its production facilities to produce in aggregate 31.0% of total gasoline production as unleaded gasoline in compliance with a 0.8 gpg lead standard.

However, during the January-March, 1980 quarter, Refiner N produced only 30.0% of its total gasoline production as unleaded gasoline aggregated over both refineries. Refineries A and B reported quarterly lead average during this quarter of 0.7 gpg and 0.9 gpg respectively. N has one lead violation in a previous quarter. During the January-March 1980 quarter each refinery produced 200,000,000 gallons of gasoline.

Total Penalty = Penalty for non-compliance with the production requirements + Penalty for non-compliance with the 0.8 gpg lead standard at Refinery B

(1) Penalty for non-compliance with the production requirements
= DF (production) + NCF (Refinery A, production)
+ NCF (Refinery B, production)

(2) NCF (Refinery A, production)

= (y-0.5) x 0.0075 x Z x (R-P) x 1/6

= (0.7-0.5) x 0.0075 x 200,000,000 x (31.0-30.0) x 1/6

NCF (Refinery A, production) = $50,000

(3) NCF (Refinery B, production)

= (y-0.5) x 0.0075 x Z x (R-P) x 1/6

= (0.9-0.5) x 0.0075 x 200,000,000 x (31.0-30.0) x 1/6

NCF (Refinery B, production) = $100,000

(4) Since Refiner N has no previous production violations.

DF (production) = $50,000

(5) Therefore,

Penalty for non-compliance with production requirements

= $50,000 + $50,000 + $100,000

= $200,000

(6) Penalty for non-compliance with the 0.8 gpg lead standard at Refinery B = DF(lead) + NCF (Refinery B, lead)

(7) NCF (Refinery B, lead) = (y-0.8) x 0.0075 x Z

= (0.9-0.8) x 0.0075 x 200,000,000

NCF (Refiner B, lead) = $150,000

(8) Since Refiner N has one previous lead violation;
DF (lead) = $100,000

(9) Penalty for non-compliance with the 0.8 gpg lead standard at Refinery B

= $150,000 + $100,000

= $250,000

(10) Total Penalty = Penalty for non-compliance with the production requirements + Penalty for non-compliance with the 0.8 gpg lead standard at Refinery B

= $200,000 + $250,000

= $450,000

APPENDIX B

CALCULATION OF THE BENEFIT OF NON-COMPLIANCE FACTOR (NCF)

Estimates of the marginal cost of increasing clear pool AKI[1] by reforming have been published by the Ethyl Corporation[2]. The cost of further reforming to increase the AKI of a barrel of clear pool from a starting AKI of 84 to an AKI of 86 is estimated to be 7.5 cents. This 7.5 cents per AKI barrel (cents/AKI-bbl) is referred to as the marginal or incremental processing cost.

Information furnished by the refining industry to Sobotka and Company[3] indicates that the marginal cost of reforming increases as the quality of the initial clear pool is improved above an AKI of 84. The marginal cost of reforming a barrel (bbl) of clear pool which is at an AKI of 85, up to an AKI of 86 is 8.5 cents/AKI-bbl. To reform a barrel of clear pool at an AKI of 86 up to an AKI of 87, will cost 9.5 cents/AKI-bbl. The marginal cost increases at a rate of about 1 cent/AKI-bbl for each unit increase in the AKI of the initial pool.

---

[1] Octane level is measured by the Antiknock Index (AKI). AKI is defined as (RON + MON)/2, where RON is the Research Octane Number and MON is the Motor Octane Number of gasoline.

[2] Unzelman, G.H., "An Antiknock for Unleaded Gasoline - Economic, Energy, and Environmental Aspects," Oil and Gas Journal, November 17, 1975; Bailie, J.D., "MMT: better way to boost octane," Oil and Gas Journal, April 19, 1976.

[3] "Economic Impact on Petroleum Refineries of Restrictions on Manganese Anti-Knock" Draft Report, Sobotka & Company, Inc., May 8, 1977, p. 6.

Assuming a national clear pool AKI average of 86 through 1980[4] it would cost 9.5 cents per barrel (42 gallons), or 0.23 cents per gallon (gal) in 1976 dollars to increase the AKI from 86 to a clear pool of 87. Ethyl Corporation representatives have indicated that the cost of processing has increased since 1976 so as to increase the marginal cost of processing a gallon of gasoline by a unit increase in AKI to an AKI of 87 to 0.35 cents per gallon. (This figure will be adjusted as appropriate to account for future inflation.)

The total cost of processing is the sum of the marginal operating cost plus costs associated with capital such as return on investment, Federal income and local ad valorem taxes, insurance, and the fixed portion of maintanence.[5] The total processing cost of increasing clear pool AKI to 87 from 86 is 0.60 cents per AKI gallon (cents/gal-AKI).

The effectiveness of lead addition to a gasoline pool already containing lead diminishes as the existing lead content of the pool increases. In the range of 0.5 gpg to 0.8 gpg lead,

---

4. "Economic Impact on Petroleum Refineries of Lead Additives Phase-down," Sabotka & Company, Inc., October 19, 1976, p. 5.

5 The inclusion of capital costs is described in "Economic Impact on Petroleum Refineries of Restrictions on Manganese Anti-Knock," Draft Report, Sobotka & Company, May 8, 1977 p. 8.

an approximate 0.30 gpg of additional lead will raise the AKI of the pool by 1 unit (1 octane number)[6]. The current cost of tetraethyl lead (TEL) is 0.50 cents per gram of lead (Ethyl Corporation, September 1979) resulting in a cost of 0.15 cents to raise the octane of a gallon of gasoline with an initial lead content in the range of 0.5 gpg to 0.8 gpg by 1 AKI unit.

Calculation of the Cost Differential Associated with Raising the AKI of 1 Gallon of Gasoline by 1 Unit

The development of the equation to calculate the benefit of non-compliance is as follows:

Cost of Processing	-	Cost of Adding Lead	-	Savings Due to Adding Lead
0.60 cents/gal-AKI	-	0.15 cents/gal-AKI	=	0.45 cents/gal-AKI

After Adjustment for Federal and State Income Taxes the savings due to adding lead = 0.225 cents/gal-AKI.

Multiply this by a proportionality factor to find the cost differential per gram of lead:

1 AKI/(0.3 gram/gal) x 0.225 cents/gal-AKI = 0.75 cents/gram.

This proportionality assumes that the response of AKI to lead dosage is approximately linear.

---

6 "Economic Impact on Petroleum Refineries of Lead Additives Phase-down," Sobotka & Company, Inc. October 29, 1976, p. 15.

Incorporate the extent by which the lead standard was exceeded:

"y" = the quarterly lead average in grams of lead per gallon of gasoline.

"A" = the applicable lead standard for small and large refineries.

(y - A) gpg x (0.75 cents/gram)

Multiply this number by the total gallons of gasoline produced at the refinery for the quarter, "Z".

(y - A) gpg x (0.75 cents/gram) x Z gals x 10^{-2} dollars/cent = $ Savings

This equation is a function of only two variables: excess lead and volume of gasoline produced at that lead level.

The total proposed penalty is assessed as follows:

PRIOR VIOLATIONS(S)	DETERRENT FACTOR	+	NON-COMPLIANCE FACTOR	=	TOTAL
0	$ 50,000	+	(y-A) x 0.0075 x Z	=	(not to exceed $10,000 x day/ quarter)
1	$100,000		"	=	"
2	$150,000		"	=	"
3	$200,000		"	=	"

y = quarterly pool lead average at refinery in grams per gallon

A = applicable maximum lead standard in grams per gallon for a small or large refinery

0.0075 = cost differential in dollars per gram

Z = total number of gallons of gasoline produced by the refinery during that quarter

APPENDIX C

Civil Penalty Assessment Table*

Schedule Number	Number of Previous Violations	Size of Business** I	II	III	IV
1	3 or more	7,000	10,000	10,000	10,000
	2	4,000	6,000	8,000	9,000
	1	2,000	4,000	7,000	8,000
	0	1,000	2,000	6,000	7,000
2	3 or more	6,000-7,000	8,000-10,000	9,000-10,000	9,000-10,000
	2	3,000-4,000	5,000- 6,000	7,000- 8,000	8,000- 9,000
	1	1,000-2,000	3,000- 4,000	6,000- 7,000	7,000- 8,000
	0	500-1,000	1,000- 2,000	5,000- 6,000	6,000- 7,000
3	3 or more	5,000-6,000	7,000- 8,000	9,000- 10,000	9,000- 10,000
	2	2,000-3,000	4,000- 5,000	6,000- 7,000	7,000- 8,000
	1	800-1,500	2,000- 3,000	5,000- 6,000	6,000- 7,000
	0	400- 800	800- 1,500	4,000- 5,000	5,000- 6,000
4	3 or more	5,000	7,000	9,000	9,000
	2	2,000	3,000	6,000	7,000
	1	1,000	2,000	4,000	5,000
	0	500	1,000	2,000	3,000
5	3 or more	1,500	2,000	2,500	3,000
	2	1,150	1,500	2,000	2,500
	1	800	1,100	1,500	2,000
	0	500	800	1,000	1,500
6	3 or more	1,400	1,600	1,800	2,000
	2	1,050	1,250	1,450	1,650
	1	700	900	1,100	1,300
	0	450	600	800	950
7	3 or more	700	800	900	1,000
	2	600	700	800	900
	1	500	600	700	800
	0	400	500	600	700

* The dollar amount in each cell should be multiplied by the number of days over which the violation continued.

**I=$0 to less than $250,000; II=$250,000 to less than $1,000,000; III=$1,000,000 to less than $5,000,000; IV=$5,000,000 and above(gross income of the business)(see 40 Fed. Reg. 39976).

[FR Doc. 79-31562 Filed 10-11-79; 8:45 am]
BILLING CODE 6560-01-C

FEDERAL MARITIME COMMISSION

[Docket No. 79-50]

Inquiry Regarding the United Nations Convention on Code of Conduct for Liner Conferences

AGENCY: Federal Maritime Commission.

ACTION: Discontinuance of Proceeding.

SUMMARY: This proceeding was instituted by notice of inquiry published May 16, 1979 (44 FR 28724). Public comment was requested on a proposed international convention governing the conduct of steamship liner conferences (UNCTAD). The filing schedule has now been completed. The notice of inquiry indicated that it is not intended that a proposed rule will issue from this proceeding. Inasmuch as no further action is contemplated in the context of this proceeding, it is appropriate that it be discontinued. It is so ordered.

FOR FURTHER INFORMATION CONTACT: Secretary, Federal Maritime Commission, Room 11101, Washington, D.C. 20573 (202) 523-5725.

SUPPLEMENTARY INFORMATION: None.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-31597 Filed 10-11-79; 8:45 am]

BILLING CODE 6730-01-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 October 5, 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 NRC 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 November 2, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Nuclear Regulatory Commission

The NRC requests clearance of application and recordkeeping requirements associated with a new program designed to reduce collective medical occupational radiation exposures. While NRC has in the past required fuel cycle licensees to have occupational ALARA (As Low As Is Reasonably Achievable) programs, this new program is unique in that for the first time numerical guidelines are established for occupational exposures NRC expects to be attained under an ALARA program. The impact of this new program is expected to be a reduction in collective medical occupational doses while maintaining individual worker doses at 10 percent or less of the dose limits contained in 10 CFR Part 20. Some leeway is provided for special cases. The program was developed with the advice and assistance of representatives of the Society of Nuclear Medicine. NRC is requesting each licensee to establish a formal program for maintaining occupational radiation exposures ALARA. Each licensee is requested to maintain on file at his institution an account of the considerations used in establishing action levels for the program and a written account of investigations of personnel exposures that exceed the action levels the licensee establishes or 10 percent of MPD (maximum permissible dose) whichever is higher. After December 4, 1979, each licensee is requested to submit his program when submitting the next amendment or renewal application and to request that his program be incorporated by a license condition into his NRC license.

The NRC estimates that approximately 2,500 NRC licensees will participate in the program and that the application burden will average 8 hours, the recordkeeping burden will average 2 hours and the maintenance of investigation of personnel exposures will average 1 hour annually for each licensee.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79-31528 Filed 10-11-79; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 79M-0348]

Shiley Laboratories, Inc.; Premarket Approval of Bjork-Shiley Prosthetic Heart Valve With Convexo-Concave Occluder

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Bjork-Shiley Prosthetic Heart Valve with Convexo-Concave Occluder sponsored by Shiley Laboratories, Inc., Irvine, CA. The device is approved for size 21 millimeter to 33 millimeter diameter valves. After reviewing the Cardiovascular Device Classification Panel's recommendation, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by November 13, 1979.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be addressed to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Keith Lusted, Bureau of Medical Devices (HFK-402), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: The sponsor, Shiley Laboratories, Inc., Irvine, CA, submitted an application for premarket approval of the Bjork-Shiley Prosthetic Heart Valve with Convexo-Concave Occluder to FDA on November 7, 1978. The device is a mechanical, tilting disc heart valve intended for to use in replacing diseased or damaged heart valves. The application was reviewed by the Cardiovascular Device Classification Panel, and FDA advisory committee, which recommended approval of the application. On April 27, 1979, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices.

A summary of the information on which FDA's approval is based is available upon request from the Hearing Clerk (address above). Requests should

be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of the FDA administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petiton for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33 (b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition, and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 13, 1979, file with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above-named office, from 9 a.m. to 4 p.m., Monday through Friday.

Dated: October 4, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-31309 Filed 10-11-79; 8:45 am]

BILLING CODE 4110-03-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, place	Type of meeting and contact person
1. Circulatory System Devices Panel	November 2, 8:30 a.m., Rm. 1409, 200 C St., Washington, DC	Open public hearing, 8:30 a.m. to 9:30 a.m.; closed committee deliberations 9:30 a.m. to 3:30 p.m.; Glenn A. Rahmoeller (HFK–450), 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

General function of the Committee. The committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those desiring to make formal presentations should notify Glen A. Rahmoeller by October 26, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Closed committee deliberations. The Panel will review premarket approval applications. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, place	Type of meeting and contact person
2. Microbiology Devices Section of the Immunology and Microbiology Devices Panel.	November 29, 9 a.m., Rm. 425A, 200 Independence Ave. SW., Washington, DC	Open public hearing, 9 a.m. to 10 a.m.; closed committee deliberations 10 a.m. to 4:30 p.m.; Thomas S. Tsakeris (HFK–440), 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7550.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to microbiology diagnostic devices. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify Mr. Tsakeris by November 2, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Closed committee deliberations. The Panel will review a premarket approval application and an antibiotic drug application. This portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many

as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC–18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: October 4, 1979.

Joseph P. Hile,

Acting Commissioner, Food and Drugs.

[FR Doc. 79–31703 Filed 10–11–79; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Deletion of Blocks Located on the Destin Dome, Gulf of Mexico Outer Continental Shelf, From Further Consideration for Proposed Sale No. A62, Gulf of Mexico

The Department of the Interior announced, on April 30, 1979, that 221 blocks totalling approximately 1,094,057 acres (442,760 hectares) had been selected for potential Outer Continental Shelf oil and gas lease sale No. A62, Gulf of Mexico.

A total of 37 of these blocks, located between 86°20′ and 87°20′ west longitude within the area named Destin Dome, are deleted from further consideration in proposed OCS sale No. A62. These blocks are as follows:

OCS Official Protraction Diagrams: NH 16–8
Destin Dome

Blocks: 24, 25, 26, 27, 28, 29, 66, 67, 68, 69, 70, 71, 72, 73, 110, 111, 112, 113, 114, 115, 116, 117, 154, 155, 156, 157, 158, 159, 160, 161, 202, 203, 204, 205, 247, 248, and 249.

Ed Hastey,

Associate Director, Bureau of Land Management.

Approved: October 5, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79–31475 Filed 10–11–79; 8:45 am]

BILLING CODE 4310–84–M

Utah Off-Road Vehicle Use Designations; Little Sahara Recreation Lands

October 1, 1979.

In accordance with Executive Order 11644 (37 FR 2877, as amended February 9, 1972), under the authority of 43 CFR Part 8340, and pursuant to the Little Sahara Recreation Lands Management Plan, as amended, the following vehicle use zones are established within the recreation area, located in Juab County, Utah:

1. *Closed to Vehicles:*

Rockwell Natural Area

Salt Lake Base and Meridian

T. 12 S., R. 5 W.,
Sec. 33: SE¼NE¼, S½
Sec. 34: NE¼NE¼, S½N½, S½
Sec. 35: W½
T. 13 S., R. 5 W.,
Secs. 3 and 4: All
Sec. 5: S½
Sec. 6: S½
Sec. 7, 8 & 9: All
Sec. 10: N½
Sec. 17, 18, 19, & 20: All
Sec. 21: W½
Sec. 28: NW¼
Sec. 30: All
Sec. 31: NW½

2. *Limited to Vehicles*

Administrative Sites, Developed and Proposed Recreation Sites, and Intensive Use Areas

Salt Lake Base and Meridian

T. 12 S., R. 4 W.,
Sec. 29: W½NE¼, SE¼NE¼, E½W½, SE¼
Sec. 32: NE¼, E½NW¼, S½
Sec. 33: SW¼SW¼
T. 13 S., R. 4 W.,
Sec. 4: Lot 4
Sec. 5: Lots 1, 2
Sec. 8: S½SE¼
Sec. 9: S½SW¼
Sec. 17: N½NE¼
T. 13 S., R. 5 W.,[1]
Sec. 12: SE¼
Sec. 13: E½, SW¼
Sec. 14: SE¼
Sec. 23: N½NE¼
Sec. 24: N½N½
Sec. 33: N½SE¼, SE¼SE¼
Sec. 34: S½
Sec. 35: SW¼
T. 14 S., R. 5 W.,
Sec. 3: Lots 1, 2, 3, 4, S½N½, SE¼

3. *Open to Vehicles*

All Other Lands Within the Recreation Lands Boundary

Salt Lake Base and Meridian

T. 12 S., R. 4 W.,
Sec. 19: Lots 3, 4, E½SW¼, SE¼
Sec. 20: W½SW¼, SE¼SW¼
Sec. 28: S½SW¼
Sec. 29: W½W½
Sec. 30: W½NW¼
Sec. 31: All
Sec. 32: All
Sec. 33: N½, N½SW¼, SE¼SW¼, SE¼
Sec. 34: SW¼NW¼, SW¼, S½SE¼
T. 12 S., R. 5 W.,
Sec. 24: S½
Sec. 25: All [1]
Sec. 26: All [1]
Sec. 27: All [1]
Sec. 28: All
Sec. 29: All
Sec. 30: SE¼NE¼, SE¼SW¼, SE¼
Sec. 31: All
Sec. 33: N½NE¼, SW¼NE¼, NW¼ [1]
Sec. 34: NW¼NE¼, N½NW¼,[1]
Sec. 35: E½ [1]
T. 13 S., R. 4 W.,
Sec. 3: All
Sec. 4: Lots 1, 2, 3, S½N½, S½
Sec. 5: Lots 3, 4, S½N½, N½S½
Sec. 6: All
Sec. 7: W½NE¼, W½
Sec. 8: NE¼, NE¼NW¼, S½NW¼, SW¼, N½SE¼
Sec. 9: N½, N½SW¼, SE¼,
Sec. 10: All
Sec. 15: N½, SW¼, N½SE¼, SW¼SE¼,
Sec. 17: S½NE¼, W½, SE¼
Sec. 18: W½SW¼SE¼,
Sec. 19: W½NE¼, N½NW¼, SE¼NW¼, E½SW¼, SE¼
Sec. 20: All
Sec. 21: All
Sec. 22: NW¼, W½SW¼
Sec. 28: Lots 1, 2, 3, 4
Sec. 29: Lots 1, 2, 3, 4, SW¼NE¼, S½NW¼, SW¼, W½SE¼
Sec. 30: All
Sec. 31: All
T. 13 S., R. 5 W.,[1]
Sec. 1: All
Sec. 5: N½
Sec. 6: N½
Sec. 10: S½
Sec. 11: All
Sec. 12: N½, SW¼
Sec. 13: NW¼
Sec. 14: N½, SW¼
Sec. 15: All
Sec. 21: E½
Sec. 22: All
Sec. 23: S½NE¼, W½, SE¼
Sec. 24: S½N½, S½
Sec. 25, 26, & 27: All
Sec. 28: NE¼, S½
Sec. 29: S½
Sec. 31: NE¼, S½
Sec. 33: N½, SW¼, SW¼SE¼
Sec. 34: N½
Sec. 35: N½, SE¼
T. 14 S., R. 4 W.,
Sec. 5: Lots 1, 2, 3, 4, S½NE¼, S½NW¼, SW¼, W½SE¼
Sec. 6: All
Sec. 7: All
Sec. 8: W½
Sec. 17: S½NW¼
Sec. 18: All
T. 14 S., R. 5 W.,
Sec. 1: All
Sec. 3: SW¼
Sec. 4: All
Sec. 5: All
Sec. 6: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, S½NE¼, SE¼NE¼, SE¼NW¼, E½SW¼, SE¼
Sec. 7: E½
Sec. 8: All
Sec. 9: All
Sec. 10: All
Sec. 11: All
Sec. 12: All
Sec. 13: All
Sec. 14: All
Sec. 15: All
Sec. 17: N½
Sec. 18: NE¼NE¼
Sec. 22: All
Sec. 23: All
Sec. 24: All

The management plan was developed after intensive inventories and public participation.

The purpose of the closure zone is to protect unique natural values found in the area. This includes a rare diploid Atriplex canescens. Vehicle use will be prohibited except for required administrative and emergency use.

The purpose of limited zone will be to eliminate competition and conflict between vehicular and non-vehicular recreation uses. All vehicular use will be restricted to designated roads and trails.

All vehicle operation is subject to regulations found in 43 CFR, Part 8340.

These designations will be effective October 15, 1979 and will remain in effect until further notice. A map showing the use zones is available from the following offices:

Richfield District Office, 150 East 900 North, Richfield, Utah 84701.
Fillmore Resource Area Office, P.O. Box 778, Fillmore, Utah 84631.
Little Sahara Recreation Lands Visitor Center (Located within the Little Sahara Recreation Lands).

Leroy C. Montoya,

Acting District Manager.

[FR Doc. 79-31236 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[1] These parcels are partly or wholly unsurveyed. The legal description and acreage reflect an estimate, based on protracted survey, of what would exist if the sections were fully surveyed.

Colorado Initial Wilderness Inventory Decision

Decision on lands which will no longer be subject to the BLM Wilderness inventory and which are now released from the management restrictions imposed by Section 603(c) of the Federal Land Policy and Management Act of 1976.

This notice announces the implementation of the Colorado State Director's Decision 1–A as published in the **Federal Register**, Vol. 44, No. 171, Friday, August 31, 1979. Decision 1–A applies only to public land wilderness inventory units which are released from further wilderness consideration with substantive public agreement.

This group of inventory units includes dispersed and small tracts of public lands and those which are roaded or otherwise intensively developed, comprising approximately 6,650,000 acres. The August 31, 1979 announcement indicated that this portion of the State Director's Decision would become effective 30 days after publication. No protests or appeals were received from any interested or affected parties during the 30-day period.

Therefore, the 6,650,000 acres included in the Colorado State Director's Decision 1–A of the August 31, 1979 notice will receive no further wilderness consideration and are no longer subject to the management restrictions imposed by Section 603(c) of the Federal Land Policy and Management Act of 1976, effective October 1, 1979.

Requests for further information concerning the BLM wilderness inventory in Colorado should be sent to: State Director, c/o WILDERNESS, Colorado State Office, Bureau of Land Management, Main Post Office Building, P.O. Box 2266, Denver, Colorado 80201.

Bishop T. Buckle,

Acting State Director, Colorado.

October 4, 1979.

[FR Doc. 79-31520 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 25122 AY, AZ]

Northwest Pipeline Corp.; R/W Application for Pipeline

October 3, 1979.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act

of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, UT 84110, has applied for a right-of-way for approximately 4.277 miles of natural gas pipeline to collect and deliver gas in Foundation Creek Gathering System across the following public lands:

Sixth Principal Meridian, Rio Blanco County, Colorado

T. 3 S., R. 101 W.,
Sec. 21, SE¼;
Sec. 28, W½E½;
Sec. 33, E½;
T. 4 S., R. 101 W.,
Sec. 4, NE¼;
T. 3 S., R. 103 W.,
Sec. 10, S½SE¼, SE¼SW¼;
Sec. 11, SW¼SW¼;
Sec. 14, W½NW¼, SE¼NW¼.

The above-named gathering system will enable the applicant to collect and convey natural gas to its customers. The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy therof has been served on Northwest Pipeline Corporation.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79-31517 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 019253a]

Western Slope Gas Co.; R/W Application for Pipeline

October 4, 1979.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Western Slope Gas Co., P.O. Box 840, Denver, Colorado 80201, has applied for a Mountain Fuel Exchange Point Meter Station on approximately one mile of pipe on the following public land:

Sixth Principal Meridian, Rio Blanco County, Colorado

T. 2 S., R. 101 W.,
Sec. 32, E½, E½SE¼;
Sec. 33, NW¼, NW¼SW¼.

The above-named meter station will enable the applicant to exchange natural gas with Mountain Fuel Supply Co. at this point and another near Rifle, CO. The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Western Slope Gas Co.* Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79-31519 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 0107432 Amended]

Western Slope Gas Co.; R/W Application for Pipeline

October 4, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Western Slope Gas Co., P.O. Box 840, Denver, Colorado 80201, has applied for a right-of-way for approximately 1.5 miles of natural gas loop line to increase suction capacity of their West Douglas Gathering System on the following public lands:

Sixth Principal Meridian, Rio Blanco County, Colorado

T. 2 S., R. 102 W.,
Sec. 19, SW¼, SW¼SE¼;
Sec. 30, N½NE¼.
T. 2 S., R. 103 W.,
Sec. 24, N½SW¼.

The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Western Slope Gas Co.*

Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,

Leader, Craig Team Branch of Adjudication.

[FR Doc. 79-31518 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[AA-26223]

Alaska; Proposed Withdrawal and Reservation of Lands

The U.S. Department of Commerce, National Oceanic and Atmospheric Administration, on June 11, 1979, filed application, serial No. AA-26223, for the withdrawal of the following described lands from settlement, sale, location, or entry, under all of the general land laws, including the mining laws subject to valid existing rights:

A tract of land within the NW¼ of Section 7, T. 13 S., R. 5 W., Copper River Meridian and more particularly described as follows:

Beginning at a point along the west bank of the west branch of West Fork Olsen Bay Creek which is approximately 485 feet upstream from a Government log cabin (Pan Abode); thence approximately N78°W, 645 feet more or less; thence approximately S8°E, 800 feet more or less; thence approximately N82°E, 200 feet more or less to the intersection of the west bank of West Fork Olsen Bay Creek; thence northerly along the west bank of West Fork Olsen Bay Creek to the point of beginning. This area comprises approximately 7 acres.

The applicant agency desires that the lands be withdrawn and reserved for continuing research projects conducted by the National Marine Fisheries Service.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in

writing to the undersigned authorized officer of the Bureau of Land Management on or before November 13, 1979.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in conection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513, on or before November 13, 1979. Notice of the public hearing will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16 B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the **Federal Register.** The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 7252.

Robert E. Sorenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-31552 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[A-12163]

Arizona; Proposed Withdrawal and Reservation of Public Lands

The Immigration and Naturalization Service, U.S. Department of Justice, filed application, Serial Number A-12162, for withdrawal of the following described lands from settlement, sale, location, or entry under all of the general land laws, including the mining laws, subject to valid existing rights:

GSR Mer., Arizona

T. 9 S., R. 23 W.,
Sec. 17, E½NE¼NE¼.

The area described contains 20.00 acres in Yuma County, Arizona.

The lands are currently within four withdrawals for the Bureau of Reclamation. The Bureau of Reclamation has filed an application for revocation of the subject withdrawals as they affect the above-described parcel.

The Immigration and Naturalization Service desires that the lands be withdrawn and reserved for the purpose of constructing, operating, and maintaining a Border Patrol Headquarters office.

For a period of 30 days from the date of publication of this Notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned Authorized Officer of the Bureau of Land Management.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073, on or before November 13, 1979. Notice of the public hearing will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual Section 2351.16B.

The Department of the Interior's regulations provide that the Authorized Officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The Authorized Officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the **Federal Register.** The Secretary's determination shall, in a proper case, be subject to the provisions of Section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752. The above-described lands are currently segregated from the operation of the public land laws, including the mining laws, by the Bureau of Reclamation withdrawals.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Arizona State Office, Bureau of Land Management, U.S. Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Dated: October 4, 1979.

Mildred C. Kozlow,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-31556 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38484, 38489 and 38490]

New Mexico; Applications

October 5, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 30 N., R. 7 W.,
Sec. 22, SW¼NE¼, N½SE¼ and SE¼SE¼.
T. 32 N., R. 8 W.,
Sec. 25, E½NW¼.
T. 28 N., R. 9 W.,
Sec. 10, lot 1 and SE¼SE¼;
Sec. 11, SW¼SW¼;
Sec. 14, NW¼NW¼.

These pipelines will convey natural gas across 1.088 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management,

P.O. Box 6770, Albuquerque, New Mexico 87107.

Michael T. Solan,

Chief, Division of Technical Services.

[FR Doc. 79-31550 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38485]

New Mexico; Application

October 5, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 25 S., R. 33 E.,
Sec. 24, SW¼NE¼, SE¼NW¼ and N½SW¼.

This pipeline will convey natural gas across 0.486 of a mile of public land in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Michael T. Solan,

Chief, Division of Technical Services.

[FR Doc. 79-31551 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38405, 38406, 38407, 38424, 38483 and 38487]

New Mexico; Application

October 5, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for nine 4½-inch natural gas pipelines and a compressor site rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 25 S., R. 26 E.,
Sec. 12, SE¼NW¼, NE¼SW¼, W½SE¼ and SE¼SE¼;
Sec. 13, NE¼NE¼.
T. 20 S., R. 27 E.,
Sec. 2, lot 2 and SW¼NE¼.
T. 25 S., R. 27 E.,
Sec. 18, lots 1, 2, SE¼NW¼, NE¼SW¼, W½SE¼ and SE¼SE¼;
Sec. 20, W½NW¼ and NW¼SW¼.
T. 18 S., R. 31 E.,
Sec. 21, NW¼SW¼.
T. 18 S., R. 32 E.,
Sec. 25, NW¼SE¼;
Sec. 33, NE¼SW¼ and N½SE¼.
T. 20 S., R. 34 E.,
Sec. 9, NW¼SE¼.

The pipelines and compressor site will be used in connection with natural gas operations and will cross 25.48 acres of public land in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Michael T. Solan,

Chief, Division of Technical Services.

[FR Doc. 79-31553 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38422]

New Mexico; Application

October 5, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for one 2-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 29 N., R. 10 W.,
Sec. 22, SW¼NW¼.

This pipeline will convey natural gas across 0.030 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Michael T. Solan,

Chief, Division of Technical Services.

[FR Doc. 79-31554 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[N-19646]

Nevada; Airport Lease Application

October 1, 1979.

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211-214), Herschel C. Clark has applied for an airport lease for the following land:

Mount Diablo Meridian

T. 17 S., R. 52 E.,
Sec. 8, SE¼NW¼, E½SW¼.

The area described comprises 120 acres in Nye County, Nevada. The application was filed on March 23, 1978, and amended on September 14, 1979, and on those dates the land was segregated from all other forms of appropriation under the public land laws.

Interested persons may submit comments to the District Manager, Bureau of Land Management, P.O. Box 5400, Las Vegas, Nevada 89102.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 79-31571 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 011902-e]

Northwest Pipeline Corp.; R/W Application for Pipeline

October 1, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right of way for a 4¼" o.d. natural gas pipeline for the Piceance Creek Gathering System approximately 2.740 miles lone, across the following Public Lands:

Sixth Principal Meridian, Rio Blanco County, Colorado

T. 2 S., R. 97 W.
Sec. 4, S½SW¼;
Sec. 8, NE¼SE¼, NE¼NE¼;
Sec. 9, N½N½N½;
Sec. 10, N½N½;
Sec. 11, NW¼NW¼.

The above-named gathering system will enabale the applicant to collect natural gas in areas through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and

conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corporation.

Any comment, claim or objections must be filed with the Chief, Branch or Adjudication, Bureau of Land Management, Colorado State Office, Room 700 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79-31559 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[M 44591]

South Dakota; Proposed Withdrawal and Reservation of Lands

October 2, 1979.

The Forest Service, Department of Agriculture, on September 10, 1979, filed application, Serial No. M 44591(SD) for the withdrawal of the following described lands from location and entry under the mining laws only, subject to valid existing rights:

Black Hills Meridian, South Dakota

T. 4 N., R. 2 E.,
Sec. 11, A portion of the NE¼ covered by MS-2025, excluding Lots 1, 2, and 3.

The area described contains 25 acres in Lawrence County, South Dakota.

The applicant desires the withdrawal to protect a developed electronic site including communications relay systems for radio, television, national defense and Federal, State and local law enforcement.

On or before November 15, 1979, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing in connection with the withdrawal is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below by November 15, 1979. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. The determination of the Secretary on the application will be published in the **Federal Register.** A separate notice will be sent to each interested party of record.

For a period of two years from the date of publication of this notice in the **Federal Register,** the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Secretary, the lands will remain segregated until the necessary right-of-way is issued.

All communications in connection with this withdrawal should be addressed to the Bureau of Land Management, Department of the Interior, Montana State Office, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-31555 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 079629, Amdt. #3]

Western Slope Gas Co.; R/W Application for Pipeline

October 3, 1979.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Western Slope Gas Co., P.O. Box 840, Denver, Colorado 80201 has applied for a right-of-way for approximately 3.39 miles of natural gas pipeline on the following public land:

Sixth Principal Meridian, Rio Blanco County, Colorado

T. 2 S., R. 102 W.,
Sec. 26, SW¼NW¼, SW¼, SW¼SE¼;
Sec. 27, S½NE¼, SE¼NW¼;
Sec. 35, NE¼, NE¼SE¼;
Sec. 36, N½SW¼, NW¼SE¼.

The additional loop line will enable the applicant to increase its suction capacity on the West Douglas Gathering System. The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Western Slope Gas Company. Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79-31558 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[Coal Lease Application C-27931]

Colorado; Land in Jackson County, Colo.; Public Hearing, Availability of Environmental Assessment, and Request for Public Comment

The Department of the Interior, Bureau of Land Management, Colorado State Office, Denver, Colorado hereby gives notice that a public hearing will be held on November 15, 1979 at 7:00 p.m. in the Soil Conservation District Building, Basement Room, 5th and Logan Street, Walden, Colorado. Application has been made to the United States that it offer for lease certain coal resources in the public lands hereinafter described. The purpose of the hearing is to obtain public comments on the Environmental Assessment and on the following items: (1) The method of mining to be employed to obtain maximum economic recovery of the coal; (2) the impact that mining the coal in the proposed leasehold may have on the area, including, but not limited to, impacts on the environment; and (3)

methods of determining the fair market value of the coal to be offered. Written requests to testify orally at the November 15, 1979 public hearing should be received at the Craig District Office, Bureau of Land Management, P.O. Box 248, Craig, Colorado 81625, prior to the close of business November 14, 1979. People who indicate they wish to testify when they check in at the hearing room may have an opportunity to testify if time is available after the listed witnesses have been heard.

Both oral and written comments will be received at the public hearing, but speakers will be limited to a maximum of three or five minutes each depending on the number of persons desiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the alloted minutes. Written comments may also be submitted to Craig District Office at the above address, prior to close of business on November 19, 1979. Substantive comments, whether written or oral, will receive equal consideration prior to any lease offering.

In addition, the public is invited to submit written comments concerning the fair market value of the coal resource to the Bureau of Land Management and the U.S. Geological Survey. Public comments will be utilized in establishing fair market value for the coal resources in the described lands.

Comments should address specific factors related to fair market value including, but not limited to: the quantity and quality of the coal resource, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return, the value of the surface estate (if private surface), and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions, may also be submitted at this time.

These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.1–2. Should any information submitted as comments be considered to be proprietary by the commenter, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to both the State Director, Colorado State Office, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, and to the Regional Conservation Manager, Conservation Division, Geological Survey, Box 25046, Denver Federal Center, Denver, Colorado 80225, to arrive no later than November 16, 1979.

C–27931

The coal resource to be offered is limited to 735,536 tons of coal recoverable by surface mining methods from the Sudduth coal seam and any overlying coal seams in the following lands located approximately 12 miles east of the town of Walden, Colorado:

T. 8 N., R. 78 W., 6th P. M.,
Sec. 10, E½SE¼NE¼, SE¼NE¼NE¼;
Sec. 11, W½NW¼.

containing 110 acres.

The coal quality is as follows: Btu—10,710; Sulfur—0.3%; Ash 8.4%; Moisture 12.7%; and averages 19.1 feet in thickness.

The draft Environmental Assessment will be available for review in the Craig District Office. Single copies are available for distribution upon request from the office at the above address.

A copy of the Environment Assessment, the case file and the comments submitted by the public on fair market value, except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Colorado State Office, Bureau of Land Management at the address set out above.

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79-31536 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

Montana, Axolotl Lakes; Proposed Motorized Vehicle Travel Restrictions

October 4, 1979.

Notice is hereby given that public comment is being accepted for 90 days on proposed motor vehicle travel restrictions in the Axolotl Lakes area pursuant to the provisions of 43 CFR Part 8342.1 and Executive Order 11644. These restrictions, subject to public review, become effective January 14, 1980. The area affected by this proposal is located approximately 10 miles southeast of Virginia City, Montana.

The current Management Framework Plan specifies motorized vehicle travel restrictions on approximately 5,480 acres of public land to prevent and mitigate serious resource damage. However, an additional 3,380 acres were added to the MFP proposal through analysis provided in the Environmental Analysis Record process to protect a frail watershed and extensive areas susceptible to severe erosion. The specific actions of this proposal include:

1. Close 2,320 acres of public land to all wheeled motor vehicle travel. Lands affected are described as follows:

T. 7 S., R. 2 W., P.M.M.,
Sec. 5, S½SW¼;
Sec. 7, SE¼SE¼;
Sec. 8, W½;
Sec. 17, W½, SE¼, S½NE¼;
Sec. 18, S½ NE¼, NE¼NW¼, SE¼,NW¼, SW¼NW¼;
Sec. 19, all;
Sec. 20, NW¼NW¼.

2. Restrict wheeled motor vehicle travel to designated ways on approximately 6,000 acres of public land. Lands affected are described as follows:

T. 7 S., R. 2 W., P.M.M.,
Sec. 7, public land;
Sec. 18, NW¼NW¼;
Sec. 20, S½, NE¼, NE¼NW¼, SE¼NW¼, SW¼NW¼;
Sec. 29, all;
Sec. 30, all;
Sec. 31, all;
Sec. 32, all.
T. 7 S., R. 3 W., P.M.M.,
Sec. 1, public land;
Sec. 12, public land;
Sec. 13, public land;
Sec. 23, public land;
Sec. 24, public land;
Sec. 25, all;
Sec. 26, public land.

3. Implement recreational land use agreements, signed May 20, 1976, with private landowners to manage motorized vehicle travel on private land. These agreements state that the grantors open, and make available to the public, private lands for nonmotorized (excluding snowmobiles) recreation. The Bureau of Land Management (BLM) is authorized to post signs and mutually agreed upon barriers in order to close private lands to wheeled motor vehicle travel.

Lands affected are described as follows:

T. 7 S., R. 2 W., P.M.M.,
Sec. 8, SE¼, S½NE¼;
Sec. 9, S½NW¼, SW¼;
Sec. 17, N½NE½.

4. Restrict over the snow travel to the period of December 1 to May 1. Seasonal adjustments would be made to insure adequate snowcover is present to protect the resource.

The vehicle closure proposed by BLM is needed to protect the unique resources of the Axolotl Lakes area from further wheeled vehicle damage and to allow reclamation of disturbed areas. Currently, uncontrolled wheeled motor vehicle travel is causing substantial resource damage, threatening the continued existence of a rare form of neotonic blotched tiger salamander, impairing scenic values, reducing the quality of the recreational experience, impairing wilderness suitability, and

jeopardizing the quality of the fishery habitat.

Kannon Richards,

Acting State Director.

[FR Doc. 79-31537 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

Change in Public Comment Period; Montana Overthrust Belt Wilderness Inventory

October 4, 1979.

Notice is hereby provided that the public comment period established to review the Montana Bureau of Land Management's (BLM) intensive wilderness inventory findings for Overthrust Belt lands has been changed. The **Federal Register** notice dated September 18, 1979, announced that the comment period would begin September 24, 1979, and conclude December 7, 1979.

This comment period will now be extended a full 90 days, beginning October 15, 1979, and ending January 15, 1980. The purpose of the comment period is to review the BLM's proposed wilderness study area decision for 48 wilderness inventory units.

The proposed decision has identified twenty inventory units described below, which are believed to possess wilderness characteristics as set forth in Section 2(c) of the 1964 Wilderness Act and which are therefore proposed to become Wilderness Study Areas (WSA's). These units are:

Butte District

MT-076-001—Ruby Mountain, 26,357 acres
MT-076-002—Blacktail Mountains, 19,189 acres
MT-076-004—Big Spring Gulch, 30,988 acres
MT-076-007—East Fork Blacktail Deer Creek, 6,180 acres
MT-076-022—Hidden Pasture Creek, 15,475 acres
MT-076-025—McCartney Mountain/Sandy Hollow, 16,380 acres
MT-076-028—Henneberry Ridge, 10,111 acres
MT-076-034—Farlin Creek, 1,260 acres
MT-076-063—Tobacco Root Tackons, 1,640 acres
MT-076-069—Axolotl Lakes, 7,140 acres
MT-076-079—Madison Tackons, 1,509 acres
MT-075-102—Blind Horse Creek, 4,927 acres
MT-075-105—Chute Mountain, 3,085 acres
MT-075-106—Deep Creek/Battle Creek, 3,086 acres
MT-075-110—Beaver Meadows, 640 acres
MT-075-114—Elkhorn, 3,585 acres
MT-075-133—Yellowstone River Island, 53 acres
MT-074-151a—Hoodoo Mountain, 11,522 acres
MT-074-151b—Gallagher Creek, 5,927 acres
MT-074-155—Quigg West, 520 acres

The following twenty-eight wilderness inventory units have been determined not to possess wilderness characteristics as set forth in section 2(c) of the 1964 Wilderness Act and are, therefore, proposed to be dropped from further consideration under the wilderness review process, and released from the constraints of interim management as specified in Section 603, of the Federal Land Policy and Management Act.

Butte District

MT-076-003—Blacktail Mountains, West, 2,130 acres
MT-076-006—White Hills South, 8,850 acres
MT-076-008—Basin Creek North, 17,960 acres
MT-076-009—Antelope Flats, 14,020 acres
MT-076-010—Basin Creek South, 10,815 acres
MT-076-011—Lima Reservoir, 5,360 acres
MT-076-015—Red Rocks Refuge North, 440 acres
MT-076-024—Camp Creek South, 7,200 acres
MT-076-026—Bell/Limekln Canyons, 13,740 acres
MT-076-029—Bachelor Mountain, 13,000 acres
MT-076-031—Cold Spring Creek, 7,100 acres
MT-076-033—Garret Hill, 1,120 acres
MT-076-042—Red Rock River Islands No. 2, 3 acres
MT-076-043—Red Rock River Islands No. 1, no island exists
MT-076-047—Jimmy New Creek, 6,275 acres
MT-076-051—Maiden Rock Islands, 1 acre
MT-076-054—Nez Perce Hollow, 12,743 acres
MT-076-059—Block Mountain, 6,700 acres
MT-076-070—Sweetwater, 7,749 acres
MT-076-071—Elk Gulch, 10,292 acres
MT-075-107—North Fork of Sun River, 196 acres
MT-075-115—Black Sage, 5,926 acres
MT-075-123—Missouri River Island, 22 acres
MT-075-124—Missouri River Island, 12 acres
MT-075-125—Missouri River Island, 5 acres
MT-075-126—Missouri River Island, 17 acres
MT-075-134—Yellowstone River Island, 23 acres
MT-075-138—Missouri River Island, 40 acres

Changes From Initial Inventory Decision Announcement

Some of the smaller inventory units contiguous to Forest Service Rare II areas placed in a further planning category have been grouped under the same inventory unit numbers. These units are: MT-076-079, MT-076-080, MT-076-081, MT-076-082, MT-076-084 which are now MT-076-079, Madison Tackons; MT-076-063, and MT-076-064 are now MT-076-063, Tobacco Root Tackons.

Units MT-076-073 and MT-076-074 have been dropped from the inventory procedures since they are not adjacent to a Forest Service Rare II further planning area and are not of sufficient wilderness quallity or size to be considered for wilderness designation.

Unit MT-074-151 was found to be two units, both larger than 5,000 acres. They are now MT-074-151a, Hoodoo Mountain and MT-074-151b, Gallagher Creek.

Units MT-076-023 and 022 were found to be one unit during field inventory; they are now MT-076-022, Hidden Pasture Creek.

Units MT-076-026 and MT-076-027 were found to be one unit during field inventory; they are now MT-076-026, Bell/Limekiln Canyons.

Additional Information Available

Copies of wilderness characteristics narrative summaries and a 1:500,000 scale map showing the Montana BLM Overthrust Belt lands will be mailed to all individuals included in the Montana BLM wilderness mailing list. Copies of these materials may also be obtained by writing:

Office of Public Affairs, Montana State Office, Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings Montana 59107.
Butte District Office, 106 N. Parkmont (Industrial Park), Butte Montana 59701.

To facilitate public review and comment on this proposal, the following schedule of public meetings has been established:

Public Meetings

October 29, 1979—Heritage Inn, Venice-Paris Room, Great Falls, Montana, 7 p.m.

October 30, 1979—Public Library, Choteau, Montana, 7 p.m.

October 30, 1979—St. Rose Family Center, Dillon, Montana, 7 p.m.

November 1, 1979—Holiday Inn, University Room, Bozeman, Montana, 7 p.m.

November 7, 1979—All Purpose Room-Cafeteria, Sheridan Pulic School, Sheridan, Montana, 7 p.m.

November 8, 1979—Travelodge, Rimini Room, Helena, Montana, 7 p.m.

November 13, 1979—Village Red Lion Motor Inn, Missoula, Montana, 7 p.m.

November 14, 1979—Multi-Purpose Room, Lima Public School, Lima, Montana, 7 p.m.

November 14, 1979—Drummond Public School, Drummond, Montana, 7 p.m.

November 15, 1979—Butte District Office, 106 No. Parkmont (Industrial Park), Butte, Montana, 7 p.m.

All written comments should be submitted to:

Montana State Office, Bureau of Land Management, Attention: Wilderness, 222 North 32nd Street, P.O. Box 30157, Billings Montana 59107.

Upon completion of the 90-day comment period and analysis of comments, a final wilderness study area decision will be announced in late January 1980.

Kannon Richards,

Acting State Director.

[FR Doc. 79-31538 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38367 and 38375]

New Mexico; Applications

October 3, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 31 N., R. 7 W.,
Sec. 10, SE¼SE¼.
T. 29 N., R. 8 W.,
Sec. 29, E½NE¼.

These pipelines will convey natural gas across 0.166 of a mile of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Bill J. Warner,

Acting Chief, Division of Technical Services.

[FR Doc. 79-31539 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38383]

New Mexico; Application

October 3, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 20 S., R. 33 E.,
Sec. 1, lot 1.
T. 20 S., R. 34 E.,
Sec. 5, W½SW¼, SE¼SW¼ and SW¼SE¼;
Sec. 6, lots 3, 4 and SE¼NW¼;
Sec. 8, N½NE¼ and SE¼NE¼;
Sec. 9, S½NW¼, NE¼SW¼, N½SE¼ and SE¼SE¼;
Sec. 10, S½SW¼;
Sec. 14, SW¼NE¼ and S½NW¼;
Sec. 15, N½NE¼, SE¼NE¼ and NE¼NW¼.

This pipeline will convey natural gas across 4.635 miles of public lands in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Bill J. Warner,

Acting Chief, Division of Technical Services.

[FR Doc. 79-31540 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38376]

New Mexico; Application

October 3, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northern Natural Gas Company has applied for one 6-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 16 S., R. 27 E.,
sec. 11, S½NE¼ and SE¼NW¼;
sec. 12, S½NW¼.

This pipeline will convey natural gas across 1.10 miles of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Bill J. Warner,

Acting Chief, Division of Technical Services.

[FR Doc. 79-31541 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

West Divide Project, Colorado; Notice of Intent To Prepare Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Reclamation proposes to prepare an environmental impact statement on the West Divide Project. The project area is in west-central Colorado in Garfield and Mesa Counties. The West Divide Project would provide water for irrigation and municipal uses and would include plans for fish and wildlife, recreation, and cultural resources.

The West Divide Project was authorized for construction by the Colorado River Basin Act of September 30, 1968, and is now in the advanced planning stage. Water for the proposed plan would be obtained primarily from West Divide Creek and the Colorado River. Storage would be provided at a reservoir on West Divide Creek and one on Dry Hollow Creek. Alternatives to the proposed plan include increased storage for municipal and industrial water, reservoir storage sites on the Crystal and Colorado Rivers, non-development, and non-structural plans.

A scoping meeting will be held on the project in accordance with § 1508.22 of final regulations of the Council on Environmental Quality pertaining to environmental impact statements. Studies for the West Divide statement, along with coordination with other agencies, organizations, and individuals, have identified most issues to be addressed at the scoping session. Additional information and ideas will be solicited from all interested individuals and organizations.

The scoping session will be held at 7 p.m. on October 15, 1979, in the Colorado Mountain College Auditorium, 703 Railroad Avenue, Rifle, Colorado.

Inquiries should be addressed to Mr. J. F. Rinckel, Projects Manager, Bureau of Reclamation, 764 Horizon Drive, Grand Junction, Colorado 81501, telephone: (303) 243-4992.

Dated: October 3, 1979.

Clifford I. Barrett,

Assistant Commissioner.

[FR Doc. 79-31363 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-09-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at the Continental Plaza Hotel, North Michigan Avenue at Delaware, Chicago, Illinois, on November 9, 1979 beginning at 8:30 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion in the Joint Board's examinations in actuarial mathematics and methodology, referred to in Title 29, U.S. Code, Sections 1242(a)(1) (B) and (C). A determination as required by Section 10(d) of the Federal Advisory Committee Act (Pub.

L. 92–463) had been made that this meeting is for the purpose of considering matters falling within the exemption to public disclosure set forth in Title 5, U.S. Code, Section 552(b)(5) and that the public interest requires such meeting be closed to public participation.

Dated: October 5, 1979.

Leslie S. Sharpiro,

Advisory Committee Management Officer Joint Board for the Enrollment of Actuaries.

[FR Doc. 79-31492 Filed 10-11-79; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Consent Judgment in United States v. Eagle Electric Manufacturing Co., Inc. et al. and Competitive Impact Statement Therein

Notice is hereby given pursuant to the *Antitrust Procedures and Penalties Act,* 15 U.S.C. section 16(b)–(h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the District of Massachusetts in *United States* v. *Eagle Electric Manufacturing Co., Inc., et al.,* Civil No. 78–2585 Ma. The complaint charges a conspiracy among five manufacturers, a trade association, and the corporation and individual that managed the trade association, to raise, fix, maintain and stabilize the prices of electrical fuse products in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

The proposed judgment would bar the defendants from fixing prices of fuse products with any third party; from exchanging price information with any manufacturer of fuse products; and from maintaining or belonging to any trade association consisting primarily of manufacturers of fuse products. The judgment would be in effect for 10 years.

Public comment is invited within the statutory 60 day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court.

Comments should be directed to the United States Department of Justice, Attention: Anthony V. Nanni, Chief, Trial Section, Antitrust Division, Washington, D.C. 20530.

Dated: September 27, 1979.

Joseph H. Widmar,

Director of Operations.

United States District Court for the District of Massachusetts

United States of America, Plaintiff, v. *Eagle Electric Manufacturing Co., Inc.; Commercial Enclosed Fuse Co. of New Jersey; Gem Electric Manufacturing Co., Inc.; Cable Electric Products, Inc.; Superior Fuse & Mfg. Co., Inc.; Byrne Organization, Inc.; and George P. Byrne, Jr.,* Defendants. Civil No. 78–2585 Ma, filed: September 27, 1979.

Stipulation

It is hereby stipulated by and between the plaintiff, United States of America, and each of the above-named defendants, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form attached hereto may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S. § 16, and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on the defendants and filing that notice with the Court.

2. In the event plaintiff withdraws its consent, or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall have no effect whatever and the making of this Stipulation shall be without prejudice to any consenting party in this or any other proceeding.

Dated: September 27, 1979.

For the Plaintiff:

L. John Schmoll,

Attorney, Department of Justice.

John H. Shenefield,

Assistant Attorney General.

Joseph H. Widmar,
Charles F. B. McAleer,
Anthony V. Nanni,

Attorneys, United States Department of Justice.

For the Defendants:

Gilbert S. Edelson,

Rosenman, Colin, Freund, Lewis & Cohen, 575 Madison Avenue, New York, New York 10022—*Attorney for Eagle Electric Manufacturing Co., Inc.*

Joseph H. MacDonald,

Harrison, Hartman & MacDonald, 113 Prospect Street, Ridgewood, New Jersey 07450—*Attorney for Commercial Enclosed Fuse Co. of New Jersey.*

David H. Peirez,

Meyer, English, Cianciulli & Peirez, P.C., 160 Mineola Boulevard, Mineola, New York 11501—*Attorney for Gem Electric Manufacturing Co., Inc.*

Jacob A. Stein,

Stein, Mitchell & Mezines, 1800 M Street, N.W., Washington, D.C. 20536—*Attorney for Cable Electric Products, Inc.*

Alan S. Ward,

Baker, Hostetler, Frost & Towers, 818 Connecticut Avenue, N.W., Washington, D.C. 20006.

Wayne Dabb,

Baker, Hostetler & Patterson, 1956 Union Commerce Building, Cleveland, Ohio 44115—*Attorneys for Superior Fuse & Manufacturing Co., Inc.*

John J. Walsh,

Cadwalader, Wickersham & Taft, One Wall Street, New York, New York 10005—*Attorney for Byrne Organization, Inc. and George P. Byrne, Jr.*

United States District Court for the District of Massachusetts

United States of America, Plaintiff, v. *Eagle Electric Manufacturing Co., Inc.; Commercial Enclosed Fuse Co. of New Jersey; Gem Electric Manufacturing Co., Inc.; Cable Electric Products, Inc.; Superior Fuse & Mfg. Co., Inc.; Byrne Organization, Inc.;* and *George P. Byrne, Jr.,* Defendants. Civil No. 78–2585 Ma, filed: September 27, 1979.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on September 28, 1978; and plaintiff and the defendants by their respective attorneys, having each consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence against or admission by any party hereto with respect to any issue of fact or law herein:

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

This Court has jurisdiction over the subject matter of this action and of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(A) "Fuse products" means fuses, which are overcurrent protective devices containing a circuit-opening element that is heated and severed by excessive electrical current. For purposes of this action only, the definition of fuse products also includes fuse links, fuse adapters, fuse reducers, and fuse pullers.

(B) "Person" means any individual, corporation, partnership firm, association or other business or legal entity;

(C) "Manufacturing Defendants" means all of the defendants named in the complaint except Byrne Organization, Inc. and George P. Byrne, Jr.

III

The provisions of this Final Judgment are applicable to all defendants herein and shall also apply to each of the corporate defendants' officers, directors, agents, employees, domestic subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise. The provisions of this Final Judgment shall not apply to any activities between a defendant corporation and a parent or subsidiary thereof.

IV

Each defendant is enjoined and restrainted from:

(A) directly or indirectly entering into, adhering to, maintaining or furthering any contract, agreement, understanding, plan, program, combination or conspiracy with any person engaged in the production or sale of fuse products to raise, fix, stabilize or maintain prices, discounts or terms or conditions of sale of fuse products to any third person;

(B) communicating to or requesting from any manufacturer of fuse products any information concerning past, present or future prices, price differentials, terms or conditions of sale, discounts, and actual or proposed pricing policies for the sale of fuse products, except necessary communications in connection with:

(1) a bona fide contemplated or actual purchase or sales transaction between the parties to such communications; or

(2) a bona fide transaction involving the actual or proposed acquisition of or merger with any manufacturer of fuse products.

V

(A) Each defendant is ordered to resign from and otherwise to cease all business dealings with the Electric Fuse Manufacturers Guild within ninety (90) days following the entry of this Final Judgment and to file with this Court and serve upon the plaintiff an affidavit setting forth the fact and date of such resignation and cessation of dealings.

(B) Each defendant is further enjoined from continuing, maintaining, reviving or belonging to the Electric Fuse Manufacturers Guild, and from organizing, being a member of, providing any management services to, or attending any meetings of any trade association consisting primarily of manufacturers of fuse products.

(C) Defendants George P. Byrne, Jr. and Byrne Organization, Inc., are enjoined and restrained from directly or indirectly organizing, holding office in being employed by a trade association of manufacturers of fuse products.

VI

(A) Within ninety (90) days after the date of entry of this Final Judgment, each manufacturing defendant shall furnish a copy thereof to each of its officers and directors and to each of its employees having supervisory sales or pricing responsibility for fuse products and obtain and retain a written receipt therefore from each such person.

(B) Within one hundred twenty (120) days from the date of entry of this Final Judgment each manufacturing defendant shall file with this Court and serve upon the plaintiff an affidavit as to the fact and manner of its compliance with subsection (A) of this Section VI.

(C) Each manufacturing defendant shall furnish a copy thereof to each new officer or director and to each new employee having supervisory sales or pricing responsibility for fuse products and shall maintain a written record, bearing the signature of such officer, director, or employee, acknowledging receipt of a copy of this Final Judgment.

(D) Each manufacturing defendant shall, on an annual basis, take affirmative steps to advise each of its officers and directors and each of its employees with supervisory sales or pricing responsibility for fuse products of the company's and their personal obligations under this final Judgment and the antitrust laws and of the criminal penalties for violation thereof. Such affirmative steps shall include, as a minimum, the distribution of a written directive explaining the antitrust laws and the obligations imposed by this Final Judgment and the holding of a meeting or meetings to review and explain the antitrut laws and this Final Judgment and the obligations imposed thereby.

(E) Each manufacturing defendant shall maintain a copy of each written directive distributed pursuant to Section VI (D) of this Final Judgment, including the date it was distributed and the persons to whom it was sent and a written record of each meeting held pursuant to such section showing the date and place of the meeting, who was present and the agenda for the meeting.

VII

Each manufacturing defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets of its fuse product business, that the acquiring party agrees to be bound by the provisions of this Final Judgment and that such agreement be filed with the Court and be served upon the plaintiff.

VIII

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview offices, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

(C) No information or documents obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

IX

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

X

Entry of this Final Judgment is in the public interest.

XI

This Final Judgment shall terminate ten (10) years from the date of its entry.

Dated at Boston, Massachusetts, this —— day of ————, 1979.

————,

United States District Judge.

United States District Court for the District of Massachusetts

United States of America, Plaintiff, v. Electric Fuse Manufacturers Guild; Eagle Electric Manufacturing Co., Inc.; Commercial Enclosed Fuse Co. of New Jersey; Gem Electric Manufacturing Co., Inc.; Cable Electric Products, Inc.; Superior Fuse & Mfg. Co., Inc.; Byrne Organization, Inc.; and George P. Byrne, Jr., Defendants. Civil No. 78-2585 Ma, filed: September 27, 1979.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. §§ 16(b)-(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature of the Proceedings

This is a civil antitrust action brought by the United States against the above-named defendants pursuant to Section 4 of the Sherman Act, 15 U.S.C. § 4, to enjoin them from continuing violations of Section 1 of the Sherman Act, 15 U.S.C. § 1. The Complaint, which was filed on September 28, 1978, alleges that the above-named defendants and certain unnamed co-conspirators engaged in a combination and conspiracy beginning

sometime prior to 1966 and continuing thereafter until at least 1976, to raise, fix, maintain and stabilize the prices of fuse products in the United States.

The Complaint seeks a judgment by the Court that the defendants have engaged in the conspiracy charged, and asks the Court to enjoin the defendants from continuing the conspiracy in the future. The Complaint also seeks additional injunctive provisions designed to eradicate certain conditions which gave rise to the conspiracy.

Proceedings in this case were stayed pending final disposition of a companion criminal prosecution, *United States* v. *Electric Fuse Manufacturers Guild, et al.*, Criminal No. 78–408–G (D. Mass.) The criminal prosecution was intiated by a grand jury indictment returned September 28, 1978 charging six corporations, six individuals and the Electric Fuse Manufacturers Guild ("Fuse Guild"), an unincorporated trade association, with a criminal violation of the Sherman Act arising out of the same conspiracy alleged in the Complaint. The indictment against the Fuse Guild was voluntarily dismissed by the United States. Each of the corporate and individual defendants in the criminal case pleaded *nolo contendere* and were sentenced. The last defendant was sentenced on April 3, 1979, by United States District Judge Charles E. Wyzanski, Jr. The criminal case is now concluded.

Shortly after the Complaint in this case and the indictment in the criminal case were filed, virtually the entire membership of the Fuse Guild resigned and the organization ceased all activity. In view of this fact, the Court, upon the motion of the United States, dismissed the Fuse Guild from the criminal case as indicated above. The Fuse Guild has not appeared in this civil action to answer the charges against it. Accordingly, since the organization has effectively ceased to exist, the United States has filed a notice dismissing the Fuse Guild from this action pursuant to Rule 41 of the Federal Rules of Civil Procedure.

Entry by the Court of the proposed Final Judgment will terminate the civil action against the remaining defendants. However, the Court will retain jurisdiction over the matter for the next ten years for possible further proceedings, which may be needed to interpret, modify, or enforce the Judgment or to punish violations of any of the provisions of the Judgment.

II

Description of the Alleged Violation

The commodity involved in this action is fuse products. Fuse products include fuses, which are overcurrent protective devices contaiing a circuit-opening element that is heated and severed by excessive electrical current. Fuse products also include fuse links, fuse adapters, fuse reducers, and fuse pullers. Fuse products do not include circuit breakers.

According to the Complaint, all but two of the defendant organizations—Byrne Organization, Inc. and the Fuse Guild—sell fuse products. The Complaint alleges that between 1966 and 1976, the defendant manufacturers had total sales of fuse products of approximately $100 million. During the years 1974 and 1975, the Complaint states, these defendants had fuse product sales totalling approximately $24 million.

At trial the United States would introduce evidence showing that as early as the 1930s, manufacturers of fuse products, including the defendant manufacturers, held meetings at which they discussed and agreed upon the prices for the fuse products which they sold. These manufacturers formed the Fuse Guild in order to provide a forum and a cover for these price-fixing meetings.

Defendant George P. Byrne, Jr. was an attorney who provided various management services to the Fuse Guild through a family corporation, defendant Byrne Organization, Inc. Byrne was aware of and participated in the illegal price-fixing meetings among the defendants. Many of these meetings were held in Byrne's offices, under the auspices of the Fuse Guild. The complaint alleges that in addition to meeting to agree upon fuse product prices, the defendants also published price lists reflecting the agreed upon prices, and telephoned each other to police and enforce the agreements reached.

III

Explanation of the Proposed Judgment

The United States and the defendants, except the Electric Fuse Manufacturers Guild, which has been dismissed from the action, have stipulated that the proposed Final Judgment, in the form negotiated by and among the parties consenting thereto, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The stipulation provides that there has been no admission by any party with respect to any issue of fact or law. Under Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed Judgment is conditioned upon a determination by the Court that the entry of the Judgment will be in the public interest.

The proposed Judgment enjoins the defendants from entering, adhering to or furthering any contract or conspiracy with any other person engaged in the manufacture of fuse products to raise, fix, stabilize or maintain prices, discounts or terms or conditions of sale of fuse products to any third person. It similarly prohibits communications concerning prices, discounts or terms or conditions of sale of fuse products. The proposed Judgment permits defendants to exchange price information with other manufacturers only in connection with: (a) bona fide negotiations with such manufacturers for the purchase or sale of products; or (b) bona fide negotiations involving the possible acquisition of or merger with such manufacturers.

The Judgment requires that the defendant corporations take various specified steps to acquaint their employees with the provisions of the antitrust laws and this Judgment, and with the penalties involved if these provisions are violated.

In view of the central role which the Fuse Guild played in furthering the illegal objectives of this conspiracy, the proposed Judgment orders the defendants to furnish the Court and the plaintiff with proof of their resignation from the Fuse Guild and with proof that they have ceased all dealings with that organization. It further enjoins each defendant from reviving the Fuse Guild, and from organizing, belonging to, providing any management services to or attending any meetings of any trade association consisting primarily of manufacturers of fuse products.

The proposed Judgment applies to each defendant, its officers, directors, agents, employees, domestic subsidiaries, successors, assignees, and to those persons in active concert or participation with any of them who shall receive actual notice of the Final Judgment by personal service or othewise. Each defendant must require as a condition of sale of all or substantially all of its assets used in the manufacture of fuse products, that the acquiring party agree to be bound by the provisions of the Final Judgment. The acquiring party is required to file with the Court and serve upon plaintiff its consent to be so bound.

The defendants are bound by the prohibitions of the proposed Judgment for a period of ten (10) years from the date of its entry and thereafter the Judgment shall terminate.

The Judgment applies to each defendant's activities wherever they may occur.

IV

Alternative Remedies Considered by the Department of Justice

The relief encompassed in the proposed Judgment is designed to prevent any recurrence of the conduct alleged in the Complaint. The Judgment provides methods for determining defendants' compliance with the terms of the Judgment. The Department of Justice, through duly authorized representatives, may interview officers, employees, and agents of each defendant regarding its compliance with the Judgment. Representatives of the Department are also given access, upon reasonable notice, to examine each defendant's records for possible violations of the Judgment and to request that the defendants submit reports to the Department of Justice on matters contained in the judgment.

It is the opinion of the Department of Justice that the proposed Judgment provides fully adequate provisions to prevent continuance or recurrence of violations of the antitrust laws charged in the complaint. The only alternative available to the Department of Justice is a full trial on the merits. In the Department's view, disposition of the lawsuit without further litigation is appropriate in that the proposed Judgment provides all the relief which the Department sought in its Complaint, and the additional cost of litigation necessarily involved if the issues were litigated would not result in any additional relief. Accordingly, the public interest is best served by the proposed consensual disposition of the action.

V

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. § 16) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such

person has suffered as well as costs and reasonable attorney fees. Entry of the proposed Judgment in this proceeding will neither impair nor assist the bringing of any such private actions. Under Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)) the proposed Judgment would have no *prima facie* effect in any lawsuits which may be pending or hereafter brought against the defendants.

VI

Procedures Available for Modification of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Judgment should be modified may submit written comments to Anthony V. Nanni, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, within the sixty (60) day period provided by the Act. These comments and the Department's response to them, will be filed with the Court and published in the **Federal Register**. All comments received will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to its entry if it should determine that some modification of the proposed Judgment is necessary. The proposed Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for such order as may be necessary or appropriate for its modification, interpretation or enforcement.

VII

Other Materials

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16) were considered in formulating this proposed Judgment. Consequently, none are submitted pursuant to such Section 2(b).

Dated: September 27, 1979.

L. John Schmoll,

Antitrust Division, Room 3246, 10th & Pennsylvania Avenue, Washington, D.C. 20530—Attorney, Department of Justice.

United States District Court for the District of Massachusetts

United States of America, Plaintiff, v. *Electric Fuse Manufacturers Guild; Eagle Electric Manufacturing Co., Inc.; Commercial Enclosed Fuse Co. of New Jersey; Gem Electric Manufacturing Co., Inc.; Cable Electric Products, Inc.; Superior Fuse & Mfg. Co., Inc.; Byrne Organization Inc.;* and *George P. Byrne, Jr.*, Defendents. Civil No. 78-2585 Ma.

Notice of Dismissal of Electric Fuse Manufacturers Guild

The plaintiff, United States of America, hereby files this notice of dismissal of the Electric Fuse Manufacturers Guild as a defendant in this action pursuant to Rule 41 (a)(1)(i) of the Federal Rules of Civil Procedure.

Dated: September 27, 1979.

L. John Schmoll,

Attorney, United States Department of Justice.

[FR Doc. 79-31547 Filed 10-11-79; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree in Action in Which the United States Seeks To Enjoin the Emission of Air Pollutants by the Ironton Coke Corp.

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on September 27, 1979, a proposed consent decree in *United States of America* v. *Ironton Coke Corporation*, was lodged with the United States District Court for the Southern District of Ohio. The proposed consent decree provides for the payment of penalties to the United States for the failure of the Ironton Coke Corporation to comply with Sec. 301(b)(1)(A) of the Clean Water Act. The proposed consent decree sets forth the company's violations of the Clean Air Act and the penalties the company must pay for such violations.

The proposed consent decree may be examined at the office of the United States Attorney, U.S. Courthouse, Room 200, Columbus, Ohio 43215; at the Region V office of the Environmental Protection Agency, Enforcement Division, 230 South Dearborn Street, Chicago, Illinois 60604; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice. The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty days from the date of this notice (November 13, 1979). Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530 and should refer to *United States of America* v. *Ironton Coke Corporation*, D.J. Reference No. 90-5-1-1-1212.

James W. Moorman,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-31548 Filed 10-11-79; 8:45 am]

BILLING CODE 4410-01-M

[AAG/A Order No. 31-79]

Privacy Act of 1974; Notice of Modified System of Records

On November 7, 1978, the FBI published in the **Federal Register** its intention to more fully describe the use of automation in the administration and operation of the FBI Central Records System (CRS) (JUSTICE/FBI-002) by creating a separate system, the Investigative Support Information System (ISIS) (JUSTICE/FBI-013). Subsequently, a determination was made that the FBI's increasing use of automation to facilitate retrieval of information from the CRS could be described more accurately by modifying the description of the system, rather than creating a new system.

Accordingly, the FBI is now withdrawing its proposed creation of the ISIS, and in place thereof, is republishing the CRS notice in order to fully describe the increased reliance on automation for the analyzing, collating and retrieval of information stored in the system. This practice will not result in maintenance of any additional information; it will only facilitate the administration of several major investigative activities in the vital areas of organized crime, foreign counterintelligence and extensive criminal investigations, such as kidnappings, extortions, etc.; nor will this practice result in additional disclosures or dissemination from the CRS; all disclosures outside the Department of Justice will continue to be made from the actual investigative files in hard copy form.

It is believed the FBI's increasing use of automation in the administration and operation of the CRS will improve significantly the efficiency and cost effectiveness of administering major investigative activities, which increasingly are becoming the primary focus of the Bureau's law enforcement efforts.

Title 5 U.S.C. 552a(e) (4) and (11) provides that the public be provided a 30-day period in which to comment; the Office of Management and Budget (OMB), which has oversight responsibility under the provisions of the Act, requires a 60-day period in which to review the system modification before it is implemented. Therefore, the public, OMB, and the Congress are invited to submit written comments on this system modification. Comments should be addressed to the Administrative Counsel, Office of Management and Finance, Room 1118, Department of Justice, 10th and Constitution Avenue, N.W., Washington,

D.C. 20530. If no comments are received from either the public, OMB, or the Congress on or before December 11, 1979, the system modification will be implemented without further notice in the **Federal Register**; except that the final rule exempting the system will be published after 60 days. No oral hearings are contemplated.

Appropriate reports have been filed with the Congress and OMB.

Dated: September 20, 1979.

William Van Stavoren,

Assistant Attorney General for Administration.

JUSTICE/FBI-002

SYSTEM NAME:

The FBI Central Records System.

SYSTEM LOCATION:

a. Federal Bureau of Investigation, J. Edgar Hoover FBI Building, 10th and Pennsylvania Avenue NW., Washington, D.C. 20535; b. 59 field divisions (see Appendix); c. *12* Legal Attaches (see Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Individuals who relate in any manner to official FBI investigations including, but not limited to suspects, victims, witnesses, and close relatives and associates that are relevant to an investigation.

b. Applicants for and current and former personnel of the FBI and persons related thereto that are considered relevant to an applicant investigation, personnel inquiry, or persons related to personnel matters.

c. Applicants for and appointees to sensitive positions in the United States Government and persons related thereto that are considered relevant to the investigation.

d. Individuals who are the subject of unsolicited information, who offer unsolicited information, request assistance, and make inquiries concerning record material, including general correspondence, contacts with other agencies, businesses, institutions, clubs, the public and the news media.

e. Individuals, associated with administrative operations or services including pertinent functions, contractors and pertinent persons related thereto.

(All manner of information concerning individuals may be acquired in connection with and relating to the varied investigative responsibilities of the FBI which are further described in "Categories of Records in the System." Depending on the nature and scope of the investigation this information may include, among other things, personal habits and conduct, financial information, travel and organizational affiliation of individuals. The information collected is made a matter of record and placed in FBI files.)

CATEGORIES OF RECORDS IN THE SYSTEM:

The FBI Central Records System—The FBI utilizes a central records system of maintaining its investigative, personnel, applicant, administrative, and general files. This system consists of one numerical sequence of subject matter files, an alphabetical index to the files, and a supporting abstract system to facilitate processing and accountability of all important mail placed in file. Files kept in FBI field offices are also structured in the same manner, except they do not utilize an abstract system.

The FBI has *210* classifications used in its basic filing system.

They pertain primarily to Federal violations over which the FBI has investigative jurisdiction. However, included in the *210* classifications are personnel, applicant, and administrative matters to facilitate the overall filing scheme. These classifications are as follows (the word "obsolete" following the name of the classification indicates *the FBI is no longer initiating investigative cases in these matters, although the material is retained for reference purposes*):

1. Training Schools; National Academy Matters; FBI National Academy Applicants. Covers general information concerning the FBI National Academy, including background investigations of individual candidates.

2. Neutrality Matters. Title 18, United States Code, Sections 956 and 958–962; Title 22, United States Code, Sections 1934 and 401.

3. Overthrow or Destruction of the Government, Title 18, United States Code, Section 2385.

4. National Firearms Act; Federal Firearms Act; State Firearms Control Assistance Act; Unlawful Possession or Receipt of Firearms. Title 26, United States Code, Sections 5801–5812; Title 18, United States Code, Sections 921–928; Title 18, United States Code, Sections 1201–1203.

5. Income Tax. Covers violations of Federal income tax laws reported to the FBI. Complaints are forwarded to the Commissioner of the Internal Revenue Service.

6. Interstate Transportation of Strikebreakers. Title 18, United States Code, Section 1231.

7. Kidnaping. Title 18, United States Code, Sections 1201 and 1202.

8. Migratory Bird Act. Title 18, United States Code, Section 43; Title 16, United States Code, Sections 703 through 718.

9. Extortion. Title 18, United States Code, Sections 876, 877, 875, and 873.

10. Red Cross Act. Title 18, United States Code, Sections 706 and 917.

11. Tax (Other than Income). This classification covers complaints concerning violations of Internal Revenue laws as they apply to other than alcohol, social security and income and profits taxes, which are forwarded to the Internal Revenue Service.

12. Narcotics. This classification covers complaints received by the FBI concerning alleged violations of Federal drug laws. Complaints are forwarded to the Administrator, Drug Enforcement Administration (DEA), or the nearest district office of DEA.

13. Miscellaneous. Section 125, National Defense Act; Prostitution; Selling Whiskey Within Five Miles Of An Army Camp. 1920 only. Subjects were alleged violators of abuse of U.S. flag, fraudulent enlistment, selling liquor and operating houses of prostitution within restricted bounds of military reservations. Violationis of Section 13 of the Selective Service Act (Conscription Act) were enforced by the Department of Justice as a war emergency measure with the Bureau exercising jurisdiction in the detection and prosecution of cases within the purview of that Section.

14. Sedition. Title 18, United States Code, Sections 2387, 2388, and 2391.

15. Theft from Interstate Shipment. Title 18, United States Code, Section 659; Title 18, United States Code, Section 660; Title 18, United States Code, Section 2117.

16. Violation Federal injunction (obsolete). FBI records do not provide an explanation of the nature of this classification.

17. Veterans Administration Matters. Title 18, United States Code, Sections 287, 289, 290, 371, or 1001; and Title 38, United States Code, Sections 787(a), 787(b), 3405, 3501, and 3502.

18. May Act. Title 18, United States Code, Section 1384.

19. Censorship Matter (obsolete). Pub. L. 354, 77th Congress.

20. Federal Grain Standards Act. 1920 only. Subjects were alleged violators of contracts for sale, shipment of interstate commerce, Section 5, U.S. Grain Standards Act.

21. Food and Drugs. This classification covers complaints *received* concerning alleged violations of the Food, Drug and Cosmetic Act; Tea Act; Import Milk Act; Caustic Poison Act; and Filled Milk Act. These complaints are referred to the Commissioner of the Food and Drug Administration or the field component of that Agency.

22. National Motor Vehicle Traffic Act. 1922–27. Subjects possible violators

of the National Motor Vehicle Theft Act; Automobiles seized by Prohibition Agents.

23. Prohibition. This classification covers complaints received concerning bootlegging activities and other violations of the alcohol tax laws. Such complaints are referred to the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, or field representatives of that Agency.

24. Profiteering. 1920–42. Subjects are possible violators of the Lever Act—Profiteering in food and clothing or *accused* company was subject of file. Bureau conducted investigations to ascertain profits.

25. Selective Service Act; Selective Training and Service Act. Title 50, United States Code, Section 462; Title 50, United States Code, Section 459.

26. Interstate Transportation of Stolen Motor Vehicle; Interstate Transportation of Stolen Aircraft. Title 18, United States Code, Sections 2311 (in part), 2312, and 2313.

27. Patent Matter. Title 35, United States Code.

28. Copyright Matter. Title 17, United States Code, Sections 104 and 105.

29. Bank Fraud and Embezzlement. Title 18, United States Code, Sections 212, 213, 215, 334, 655–657, 1004–1006, 1008, 1009, 1014, and 1306; Title 12, United States Code, Section 1725(g).

30. Interstate Quarantine Law. 1922–25. Subjects alleged violators of Act of February 15, 1893, as amended, regarding interstate travel of persons afflicted with infectious diseases. Cases also involved unlawful transportation of animals, Act of February 2, 1903. Referrals were made to Public Health Service and the Department of Agriculture.

31. White Slave Traffic Act. Title 18, United States Code, Sections 2421–2424.

32. Identification (Fingerprint Matters). This classification covers general information concerning Identification (fingerprint) matters.

33. Uniform Crime Reporting. This classification covers general information concerning the Uniform Crime Reports, a periodic compilation of statistics of criminal violations throughout the United States.

34. Violation of Lacy Act. 1922–43. Unlawful transportation and shipment of black bass and fur seal skins.

35. Civil Service. This classification covers complaints received by the FBI concerning Civil Service matters which are referred to the United States Civil Service Commission in Washington or regional offices of that Agency.

36. Mail Fraud. Title 18, United States Code, Section 1341.

37. False Claims Against the Government. 1921–22. Subjects submitted claims for allotment, vocational training, compensation as veterans under the Sweet Bill. Letters were generally referred elsewhere (Veterans Bureau). Violators apprended for violation of Article No. 1, War Risk Insurance Act..

38. Application for Pardon to Restore Civil Rights. 1921–35. Subjects allegedly obtained their naturalization papers by fraudulent means. Cases later referred to Immigration and Naturalization Service.

39. Falsely Claiming Citizenship. Title 18, United States Code, Sections 911 and 1015(a)(b).

40. Passport and Visa Matter. Title 18, United States Code, Sections 1541–1546.

41. Explosives (obsolete). Title 50, United States Code, Sections 121 through 144.

42. Deserter; Deserter, Harboring. Title 10, United States Code, Sections 808 and 885.

43. Illegal Wearing of Uniforms; False Advertising or Misuse of Names, Words, Emblems or Insignia; Illegal Manufacture, Use, Possession, or Sale of Emblems and Insignia; Illegal Manufacture, Possession, or Wearing of Civil Defense Insignia; Miscellaneous, Forging or Using Forged Certificate of Discharge from Military or Naval Service; Miscellaneous, Falsely Making or Forging Naval, Military, or Official Pass; Miscellaneous, Forging or Counterfeiting Seal of Department or Agency of the United States; Misuse of the Great Seal of the United States or of the Seals of the President or the Vice President of the United States; Unauthorized Use of *"Johnny Horizon"* Symbol; Unauthorized Use of *Smokey Bear* Symbol. Title 18, United States Code, Sections 702, 703, and 704; Title 18, United States Code, Sections 701, 705, 707, and 710; Title 36, United States Code, Section 182; Title 50, Appendix, United States Code, Sections 2284; Title 46, United States Code, Section 249; Title 18, United States Code, Sections 498, 499, 506, 709, 711, 711a, 712, 713, and 714; Title 12, United States Code, Sections 1457 and 1723a; Title 22, United States Code, Section 2518.

44. Civil Rights; Civil Rights, Election Laws, Voting Rights Act, 1965, Title 18, United States Code, Sections 241, 242, and 245; Title 42, United States Code, Section 1973, Title 18, United States Code, Section 243; Title 18, United States Code, Section 244, *Civil Rights Act—Federally Protected Activities; Civil Rights Act—Overseas Citizens Voting Rights Act of 1975.*

45. Crime on the High Seas (Includes stowaways on boats and aircraft). Title 18, United States Code, Sections 7, 13, 1243, and 2199.

46. Fraud Against the Government; Anti-Kickback Statute; Dependent Assistance Act of 1950; False Claims, Civil; Federal-Aid Road Act; Lead and Zinc Act; Public Works and Economic Development Act of 1965; Renegotiation Act, Criminal; Renegotiation Act, Civil; Trade Expansion Act of 1962; Unemployment Compensation Statutes; Economic Opportunity Act. Title 50, United States Code, Section 1211 et seq.; Title 31, United States Code, Section 231; Title 41, United States Code, Section 119; Title 40, United States Code, Section 489.

47. Impersonation. Title 18, United States Code, Sections 912, 913, 915, and 916.

48. Postal. Violation (Except Mail Fraud). This classification covers inquiries concerning the Postal Service and complaints pertaining to the theft of mail. Such complaints are either forwarded to the Postmaster General or the nearest Postal Inspector.

49. National Bankruptcy Act. Title 18, United States Code, Sections 151–155.

50. Involuntary Servitude and Slavery. U.S. Constitution, 13th Amendment; Title 18, United States Code, Sections 1581–1588, 241, and 242.

51. Jury Panel Investigations. This classification covers jury panel investigations which are requested by the appropriate Assistant Attorney General *as authorized by 28 U.S.C. 533 and AG memorandum #781, dated 11/9/72.* These investigations can be conducted only upon such a request and consist of an indices and arrest check, *and only in limited important trials where defendant could have influence over a juror.*

52. Theft, Robbery, Embezzlement, Illegal Possession or Destruction of Government Property. Title 18, United States Code, Sections 641, 1024, 1660, 2112, and 2114. *Interference With Government Communications, Title 18, U.S.C., Section 1632.*

53. Excess Profits On Wool. 1918. *(obsolete)* Subjects possible violator of Government Control of Wool Clip of 1918.

54. Customs Laws and Smuggling. This classification covers complaints received concerning smuggling and other matters involving importation and entry of merchandise into and the exportation of merchandise from the United States. Complaints are referred to the nearest district office of the U.S. Customs Service or the Commissioner of Customs, Washington, D.C.

55. Counterfeiting. This classification covers complaints received concerning alleged violations of counterfeiting of

U.S. coins, notes, and other obligations and securities of the Government. These complaints are referred to either the Director, U.S. Secret Service, or the nearest office of that Agency.

56. Election Laws. Title 18, United States Code, Sections 241, 242, 245, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, and 607; Title 42, United States Code, Section 1973; Title 26, United State Code, Sections 9012 and 9042; title 2, United States Code, Sections 431, 432, 433, 434, 435, 436, 437, 439, and 441.

57. War Labor Dispute Act (obsolete). Pub. L. 89—77th Congress.

58. Bribery; Conflict of Interest. Title 18, United States Code, Sections 201–203, 205–211; Pub. L. 89–4 and 89–136.

59. World War Adjusted Compensation Act 1924–44. Bureau of Investigation was charged with the duty of investigating alleged violations of all sections of the World War Adjusted Compensation Act (Pub. L. 472, 69th Congress (H.R. 10277)) with the exception of section 704.

60 Anti-Trust. Title 15, United States Code, Sections 1–7, 12–27, and 13.

61. Treason or Misprison of Treason. Title 18, United States Code, Sections 2381, 2382, 2389, 2390, 756, and 757.

62. Administrative Inquiries. Misconduct Investigations of Officers and Employees of the Department of Justice and Federal Judiciary; Census Matters (Title 13, United States Code, Sections 211–214, 221–224, 304, and 305) Domestic Police Cooperation; Eight-Hour-Day Law (Title 40, United States Code, Sections 321, 322, 325a, 326); Fair Credit Reporting Act (Title 15, United States Code, Sections 1681q and 1681r); Federal Cigarette Labeling and Advertising Act (Title 15, United States Code, Section 1333); Federal Judiciary Investigations; Kickback Racket Act (Title 18, United States Code, Section 874); Lands Division Matter; Other Violations and/or Matters; Civil Suits—Miscellaneous; Soldiers' and Sailors' Civil Relief Act of 1940 (Title 50, Appendix, United States Code, Sections 510–590); Tariff Act of 1930 (Title 19, United States Code, Section 1304); Unreported Interstate Shipment of Cigarettes (Title 15, United States Code, Sections 375 and 376); Fair Labor Standards Act of 1938 (Wage and Hour Law) (Title 29, United States Code, Sections 2010219); conspiracy (Title 18, United States Code, Section 371 (formerly Section 88, title 18, United States Code); effective September 1, 1948).

63. Miscellaneous—Nonsubversive. This classification concerns correspondence from the public which does not relate to matters within FBI jurisdiction.

64. Foreign Miscellaneous. This classification is a control file utilized as a repository for intelligence information of value identified by country. More specific categories are place in classification 108–113.

65. Espionage. Attorney General Guidelines on Foreign Counterintelligence; Internal Security Act of 1950; Executive Order 11905.

66. Administrative Matters. This classification covers such items as supplies, automobiles, salary matters and vouchers.

67. Personnel Matters. This classification concerns background investigations of applicants for employment with the FBI.

68. Alaskan Matters (obsolete). This classification concerns FBI investigations in the Territory of Alaska prior to its becoming a State.

69. Contempt of Court Title 18, United States Code, Sections 401, 402, 3285, 3691, 3692; Title 10, United States Code, Section 847; and Rule 42, Federal Rules of Criminal Procedure.

70. Crime on Government Reservation; Title 18, United States Code, Sections 7 and 13.

71. Bills of Lading Act. Title 49, United States Code, Section 121.

72. Obstruction of Criminal Investigations. Title 18, United States Code, Sections 1503 through 1510.

73. Application for pardon After Completion of Sentence and Application for Executive Clemency. This classification concerns the FBI's background investigation in connection with pardon applications and requests for executive clemency.

74. Perjury. Title 18, United States Code, Sections 1621, 1622, and 1623.

75. Bondsmen and Sureties. Title 18, United States Code, Section 1506.

76. Escaped Federal Prisoner; Escape and Rescue; Probation Violator; Parole violator; Mandatory Release Violator. Title 18, United States Code, Sections 751–757, 1072; Title 18, United States Code, Sections 3651–3656; and Title 18, United States Code, Sections 4202–4207, 5037, and 4161–4166.

77. Applicants (Special Inquiry, Departmental and Other Government Agencies, except those having special classifications). This classification covers the background investigations conducted by the FBI in connection with the aforementioned positions.

78. Illegal Use of Government Transportation Requests. Title 18, United States Code, Sections 287, 495, 508, 641, 1001 and 1002.

79. Missing Persons. This classification covers the FBI's Identification Division's assistance in the locating of missing persons.

80. Laboratory Research Matters. At FBI Headquarters this classification is used for Laboratory research matters. In field office files this classification covers the FBI's public affairs matters and involves contact by the FBI with the general public, Federal and State agencies, the Armed Forces, corporations, the news media and other outside organizations.

81. Gold Hoarding. 1933–45. Gold Hoarding investigations conducted in accordance with an Act of March 9, 1933 and Executive Order issued August 28, 1933. Bureau instructed by Department to conduct no further investigations in 1935 under the Gold Reserve Act of 1934. Thereafter, all correspondence referred to Secret Service.

82. War Risk Insurance (National Life Insurance) (obsolete). This classification covers investigations conducted by the FBI in connection with civil suits filed under this statute.

83. Court of Claims. This classification covers requests for investigation of cases pending in the Court of Claims from the Assistant Attorney General in charge of the Civil Division of the Department of Justice.

84. Reconstruction Finance Corporation Act (obsolete). Title 15, United States Code, Chapter 14.

85. Home Owner Loan Corporation (obsolete). This classification concerned complaints received by the FBI about alleged violations of the Home Owners Loan Act, which were referred to the Home Owners Loan Corporation. Title 12, United States Code, Section 1464.

86. Federal Lending and Insurance Agencies. Title 15, United States Code, Section 645; Title 18, United States Code, Sections 212, 213, 215, 216, 217, 657, 658, 1006, 1011, 1013, 1014, 1907, 1908 and 1909.

87. Interstate Transportation of Stolen Property (Fraud by wire, Radio, or Television). Title 18, United States Code, Sections 2311, 2314, 2315, and 2318.

88. Unlawful Flight to Avoid Prosecution, Custody, or Confinement; Unlawful Flight to Avoid Giving Testimony. Title 18, United States Code, Sections 1073 and 1074.

89. Assaulting or Killing a Federal Officer, Congressional Assassination Statute. Title 18, United States Code, Sections 111, 1114, 2232.

90. Irregularities in Federal Penal Institutions. Title 18, United States Code, Sections 1791 and 1792.

91. Bank Burglary; Bank Larceny; Bank Robbery. Title 18, United States Code, Section 2113.

92. Anti-Racketeering; Title 18, United States Code, Section 3237.

93. Ascertaining Financial Ability. This classification concerns requests by the Department of Justice for the FBI to ascertain a person's ability to pay a claim, fine or judgement obtained against him by the United States Government.

94. Research Matters. This classification concerns all general correspondence of the FBI with private individuals which does not involve any substantive violation of Federal law.

95. Laboratory Cases (Examination of Evidence in Other Than Bureaus Cases). This classification concerns non-FBI cases where a duly constituted State,. county or a municipal law enforcement agency in a criminal matter has requested an examination of evidence by the FBI Laboratory.

96. Alien Applicant (obsolete). Title 10, United States Code, Section 310.

97. *Foreign Agents* Registration Act. Title 18, United States Code, Section 951; Title 22, United States Code, Sections 611–621; Title 50, United States Code, Sections 851–857.

98. Sabotage. Title 18, United States Code, Sections 2151–2156; Title 50, United States Code, Section 797.

99. Plant Survey (obsolete). This classification covers a program where in the FBI inspected industrial plants for the purpose of making suggestions to the operators of those plants to prevent espionage and sabotage.

100. Domestic Security. This classification covers investigations by the FBI in the domestic security field, *e.g., Smith Act violations.*

101. Hatch Act (obsolete). Pub. L. 252. 76th Congress.

102. Voorhis Act. Title 18, United States Code, Section 1386.

103. Interstate Transportation of Stolen Cattle. Title 18, United States Code, Sections 2311, 2316 and 2317.

104. Servicemen's Dependents Allowance Act of 1942 (obsolete). Pub. L. 625, 77th Congress, Sections 116–119.

105. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

106. Alien Enemy Control; Escaped Prisoners of War and Internees. 1944–55. Suspects were generally suspected escaped prisoners of war, members of foreign organizations, failed to register under the Alien Registration Act. Cases ordered closed by Attorney General after alien enemies returned to their respective countries upon termination of hostilities.

107. Denaturalization Proceedings (obsolete). This classification covers investigations concerning allegations that an individual fraudulently swore allegiance to the United States or in some other manner illegally obtained citizenship to the U.S., Title 8, United States Code, Section 738.

108. Foreign Travel Control (obsolete). This classification concerns security-type investigations wherein the subject is involved in foreign travel.

109. Foreign Political Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign political matters broken down by country.

110. Foreign Economic Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign economic matters broken down by country.

111. Foreign Social Conditions. This classification is a control file utilized as a repository for intelligence information concerning foreign social conditions broken down by country.

112. Foreign Funds. This classification is a control file utilized as a repository for intelligence information concerning foreign funds broken down by country.

113. Foreign Military and Naval Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign military and naval matters broken down by country.

114. Alien Property Custodian Matter (obsolete). Title 50, United States Code, Sections 1 through 38. This classification covers investigations concerning ownership and control of property subject to claims and litigation under this statute.

115. Bond Default; Bail Jumper. Title 18, United States Code, Sections 3146–3152.

116. Department of Energy Applicant; Department of Energy, Employee. This classification concerns background investigations conducted in connection with employment with the Department of Energy.

117. Department of Energy, Criminal. Title 42, United States Code, Sections 2011–2281; Pub. L. 93–438.

118. Applicant, intelligence Agency (obsolete). This classification covers applicant background investigations conducted of persons under consideration for employment by the Central Intelligence Group.

119. Federal Regulations of Lobbying Act. Title 2, United States Code, Sections 261–270.

120. Federal Tort Claims Act. Title 28, United States Code, Sections 2671 to 2680. Investigations are conducted pursuant to specific request from the Department of Justice in connection with cases in which the Department of Justice represents agencies sued under the Act.

121. Loyalty of Government Employees (obsolete). Executive Order 9835.

122. Labor Management Relations Act, 1947. Title 29, United States Code, Sections 161, 162, 176–178 and 186.

123. Special Inquiry, State Department, Voice of America (U.S. Information Center) (Pub. L. 402, 80th Congress). (*obsolete*) This classification covers loyalty and security investigations on personnel employed by or under consideration for employment for Voice of America.

124. European Recovery Program (International Cooperation Administration), formerly Foreign Operations Administration, Economic Cooperation Administration or E.R.P., European Recovery Programs; A.I.D., Agency for International Development (obsolete). This classification covers security and loyalty investigations of personnel employed by or under consideration for employment with the European Recovery Program. Pub. L. 472, 80th Congress.

125. Railway Labor Act; Railway Labor Act—Employer's Liability Act. Title 45, United States Code, Sections 151–163 and 181–188.

126. National Security Resources Board, Special Inquiry (obsolete). This classification covers loyalty investigations on employees and applicants of the National Security Resources Board.

127. Sensitive Positions in the United States Government, Pub. L. 266 (obsolete). Pub. L. 266, 81st Congress.

128. International Development Program (Foreign Operations Administration). (*obsolete*) This classification covers background investigations conducted on individuals who are to be assigned to duties under the International Development Program.

129. Evacuation Claims (obsolete). Pub. L. 886, 80th Congress.

130. Special Inquiry, Armed Forces Security Act (obsolete). This classification covers applicant-type investigations conducted for the Armed Forces security agencies.

131. Admiralty Matter. Title 46, United States Code, Sections 741 to 752 and 781 to 799.

132. Special Inquiry, Office of Defense Mobilization (obsolete). This classification covers applicant-type investigations of individuals associated with the Office of Defense Mobilization.

133. National Science Foundation Act, Applicant (obsolete). Pub. L. 507, 81st Congress.

134. *Foreign Counterintelligence Assets. This classification concerns individuals who provide information to*

the FBI concerning Foreign Counterintelligence matters.

135. PROSAB (Protection of Strategic Air Command Bases of the U.S. Air Force). (*obsolete*) This classification covered contacts with individuals with the aim to develop information useful to protect bases of the Strategic Air Command.

136. American Legion Contact (obsolete). This classification covered liaison contacts with American Legion officers.

137. Informants, *Other than Foreign Counterintelligence Assets. This classification concerns individuals who furnish information to the FBI concerning criminal violations on a continuing and confidential basis.*

138. Loyalty of Employees of the United Nations and Other Public International Organizations. This classification concerns FBI investigations based on referrals from the Civil Service Commission wherein a question or allegation has been received regarding the applicant's loyalty to the U.S. Government as described in Executive Order 10422.

139. Interception of Communications (Formerly, Unauthorized Publication or Use of Communications). Title 47, United States Code, Section 605; Title 47, United States Code, Section 501; Title 18, United States Code, Sections 2510–2513.

140. Security of Government Employees; S.G.E., Fraud Against the Government. Executive Order 10450.

141. False Entries in Records of Interstate Carriers. Title 47, United States Code, Section 220; Title 49, United States Code, Section 20.

142. Illegal Use of Railroad Pass. Title 49, United States Code, Section 1.

143. Interstate Transportation of Gambling Devices. Title 15, United States Code, Sections 1171 through 1180.

144. Interstate Transportation of Lottery Tickets. Title 18, United States Code, Section 1301.

145. Interstate Transportation of Obscene Matter; Broadcasting Obscene Language. Title 18, United States Code, Sections 1462, 1464 and 1465.

146. Interstate Transportation of Prison-Made Goods. Title 18, United States Code, Sections 1761 and 1762.

147. *Department of Housing and Urban Development.* Matters. Title 18, United States Code, Sections 1010, 709, 657, and 1006; Title 12, United States Code, Sections 1715 and 1709.

148. Interstate Transportation of Fireworks. Title 18, United States Code, Section 836.

149. Destruction of Aircraft or Motor Vehicles. Title 18, United States Code, Sections 31 through 35.

150. Harboring of Federal Fugitives, Statistics.

151. (Referral cases received from CSC under Pub. L. 298). Agency for International Development; Department of Energy (Civil Service Commission); National Aeronautics and Space Administration; National Science Foundation; Peace Corps.; Action; U.S. Arms Control and Disarmament Agency; World Health Organization; International Labor Organization; U.S. Information Agency. This classification covers referrals from the Civil Service Commission where an allegation has been received regarding an applicant's loyalty to the U.S. Government. These referrals refer to applicants from Peace Corps., Department of Energy, National Aeronautics and Space Administration, Nuclear Regulatory Commission, United States Arms Control and Disarmament Agency and the United States Information Agency.

152. Switchblade Knife Act. Title 15, United States Code, Sections 1241 through 1244.

153. Automobile Information Disclosure Act. Title 15, United States Code, Sections 1231, 1232 and 1233.

154. Interstate Transportation of Unsafe Refrigerators. Title 15, United States Code, Sections 1211 through 1214.

155. National Aeronautics and Space Act of 1958. Title 18, United States Code, Section 799.

156. *Employee Retirement Income Security* Act. Title 29, United States Code, Sections 1021–1029, 1111, 1131, and 1141; Title 18, United States Code, Sections 644, 1027, and 1954.

157. Civil Unrest. This classification concerns FBI responsibility for reporting information on civil disturbances or demonstrations. The FBI's investigative responsibility is based on the Attorney General's Guidelines for Reporting on Civil Disorders and Demonstrations Involving a Federal Interest which became effective April 5, 1976.

158. Labor-Management Reporting and Disclosure Act of 1959 (Security Matter) (obsolete). Pub. L. 86–257, Section 504.

159. Labor-Management reporting and Disclosure Act of 1959 (Investigative Matter). Title 29, United States Code, Sections 501, 503, 504, 522, and 530.

160. Federal Train Wreck Statute. Title 18, United States Code, Section 1992.

161. Special Inquiries for White House, Congressional Committee and Other Government Agencies. This classification covers investigations requested by the White House, Congressional committees or other Government agencies.

162. Interstate Gambling Activities. This classification covers information acquired concerning the nature and scope of illegal gambling activities in each field office.

163. Foreign Police Cooperation. This classification covers requests by foreign police for the FBI to render investigative assistance to such agencies.

164. Crime Aboard Aircraft. Title 49, United States Code, Sections 1472 and 1473.

165. Interstate Transmission of Wagering Information. Title 18, United States Code, Section 1084.

166. Interstate Transportation in Aid of Racketeering. Title 18, United States Code, Section 1952.

167. Destruction of Interstate Property. Title 15, United States Code, Sections 1281 and 1282.

168. Interstate Transportation of Wagering Paraphernalia. Title 18, United States Code, Section 1953.

169. Hydraulic Brake Fluid Act (obsolete); 76 Stat. 437, Pub. L. 87–637.

170. Extremist Informants (obsolete). This classification concerns individuals who provided information on a continuing basis on various extremist elements.

171. Motor Vehicle Seat Belt Act (obsolete). Pub. L. 88–201, 80th Congress.

172. Sports Bribery. Title.

173. Public Accommodations, Civil Rights Act of 1964 Public Facilities, Civil Rights Act of 1964 Public Education, Civil Rights Act of 1964 Employment, Civil Rights Act of 1964. Title 42, United States Code, Section 2000; Title 18, United States Code, Section 245.

174. Explosives and Incendiary Devices; Bomb Threats (Formerly, Bombing Matters; Bombing Matters, Threats). Title 18, United States Code, Section 844.

175. Assaulting the President (or Vice President) of the United States. Title 18, United States Code, Section 1751.

176. Anti-riot Laws. Title 18, United States Code, Section 245.

177. Discrimination in Housing. Title 42, United States Code, Sections 3601–3619 and 3631.

178. Interstate Obscene or Harassing Telephone Calls. Title 47, United States Code, Section 223.

179. Extortionate Credit Transactions. Title 18, United States Code, Sections 891–896.

180. Desecration of the Flag. Title 18, United States Code, Section 700.

181. Consumer Credit Protection Act. Title 15, United States Code, Section 1611.

182. Illegal Gambling Business; Illegal Gambling Business, Obstruction; Illegal Gambling Business, Forfeiture. Title 18,

United States Code, Section 1955; Title 18, United States Code, Section 1511.

183. Racketeer, Influence and Corrupt Organizations. Title 18, United States Code, Sections 1961–1968.

184. Police Killings. This classification concerns investigations conducted by the FBI upon written request from local Chief of Police or duly constituted head of the local agency to actively participate in the investigation of the killing of a police officer. These investigations are based on a Presidential Directive dated June 3, 1971.

185. Protection of Foreign Officials and Officials Guests of the United States. Title 18, United States Code, Sections 112, 970, 1116, 1117 and 1201.

186. Real Estate Settlement Procedures Act of 1974. Title 12, United States Code, Section 2602; Title 12, United States Code, Section 2606; and Title 12, United States Code, Section 2607.

187. Privacy Act of 1974, Criminal. Title 5, United States Code, Section 552a.

188. Crime Resistance. This classification covers FBI efforts to develop new or improved approaches, techniques, systems, equipment and devices to improve and strengthen law enforcement as mandated by the Omnibus Crime Control and Safe Streets Act of 1968.

189. Equal Credit Opportunity Act. Title 15, United States Code, Section 1691.

190. Freedom of Information/Privacy Acts. This classification covers the creation of a correspondence file to preserve and maintain accurate records concerning the handling of requests for records submitted pursuant to the Freedom of Information—Privacy Acts.

191. False Identify Matters. This classification covers the FBI's study and examination of criminal elements efforts to create false identities.

192. Hobbs Act—Financial Institutions. Title 18, United States Code, Section 1951.

193. Hobbs Act—Commerical Institutions. Title 18, United States Code, Section 1951; and Title 47, United States Code, Section 506.

194. Hobbs Act—Corruption of Public Officials. Title 18, United States Code, Section 1951.

195. Hobbs Act—Labor Related. Title 18, United States Code, Section 1951.

196. Fraud by Wire. Title 18, United States Code, Section 1343.

197. Civil Actions or Claims Against the Government. This classification covers all civil suits involving FBI matters and most administrative claims filed under the Federal Tort Claims Act arising from FBI activities.

198. Crime on Indian Reservations. Title 18, United States Code, Sections 1151, 1152, and 1153.

199. Foreign Counterintelligence—Terrorism. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

200. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

201. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

202. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

203. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

204. Federal Revenue Sharing. This classification covers FBI investigations conducted where the Attorney General has been authorized to bring civil action whenever he has reason to believe that a pattern or practice of discrimination in disbursement of funds under the Federal Revenue Sharing statute exists.

205. Foreign Concept Practices Act of 1977. Title 15, United States Code, Section 78.

206. Fraud Against the Government—Department of Defense. (See classification 46 (supra) for statutory authority for this and the four following classifications).

207. Fraud Against the Government—Environmental Protection Agency.

208. Fraud Against the Government—General Services Administration.

209. Fraud Against the Government—Department of Health, Education and Welfare.

210. Fraud Against the Government—Department of Labor.

Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
Administrative Index (ADEX)	Consists of cars with descriptive data on individuals who were subject to investigation in a national emergency because they believed to constitute a potential or active threat to the internal security of the United States. When ADEX was started in 1971, it was made up of people who were formerly on the Security Index, Reserve Index, and Agitator Index. The index is maintained in two separate locations in FBI Headquarters. ADEX was discontinued in January 1976. The computer section of the FBI has in storage on computer tape all the individuals who were on ADEX when it was discontinued.	Inactive	Yes	Yes (29)
Anonymous Letter File	*Consists of photographs of anonymous communications and extortionate credit transactions; kidnapping, extortion and threatening letters.*	*Active*	*Yes*	*No*
Associates of DEA Class I Narcotics Violators Listing.	Consists of a computer listing of individuals whom DEA has identified as associates of Class I Narcotics Violators.	Active	Yes	Yes (59)
Background Investigation Index—Department of Justice.	Consists of cards on persons who have been the subject of a full field investigation in connection with their consideration for employment in sensitive positions with Department of Justice, such as U.S. Attorney, Federal judge, or a high level Departmental position.	Active	Yes	No
Background Investigation Index—White House, Other Executive Agencies, and Congress.	Consists of cards on persons who have been the subject of a full field investigation in connection with their consideration for employment in sensitive positions with the White House, Executive agencies (other than the Department of Justice) and the Congress.	Active	Yes	No
Bank Fraud and Embezzlement Index	Consists of individuals who have been the subject of "Bank Fraud and Embezzlement" investigation. This file is used as an investigative aid.	Active	No	Yes (1)
Bank Robbery Album	Consists of photos of bank robbers, burglarers, and larency subjects. In some field offices it will also contain pictures obtained from local police departments of known armed robbers and thus potential bank robbers. This index is used to develop investigative leads in bank robbery cases and may also be used to show to witnesses of bank robberies. It is usually filed by race, height, and age. This index is also maintained in one resident agency (a subotfice of a field office).	Active	No	Yes (47)
Bank Robbery Nickname Index	Consists of nicknames used by known bank robbers. The index card on each would contain the real name and method of operation and are filed in alphabetical order.	Active	No	Yes (1)
Bank Robbery Note File	Consists of photographs of notes used in bank robberies in which the suspect has been identified. This index is used to help solve robberies in which the suspect has not been identified but a note was left. The note is compared with the index to try to match the sentence structure and handwriting for the purpose of identifying possible suspects.	Active	Yes	No

Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
Bank Robbery Suspect Index	Consists of a control file or index cards with photos, if available, or bank robbers of burglars. In some field offices these people may be part of the bank robbery album. This index is generally maintained and used in the same manner as the bank robbery album.	Active	No	Yes (33)
Car Ring Case Photo Album	Consists of photos of subject and suspects involved in a large car theft ring investigation. It is used as an investigative aid.	Active	No	Yes (3)
Car Ring Case Photo Album and Index	Consists of photos of subjects and suspects involved in a large car theft ring investigation. The card index maintained in addition to the photo album contains the names and addresses appearing on fraudulent title histories for stolen vehicles. Most of these names appearing on these titles are fictitious. Both the photo album and card indexes are used as an investigative aid.	Active	No	Yes (1)
Car Ring Case Toll Call Index	Consists of cards with information on persons who subscribe to telephone numbers to which toll calls have been placed by the major subjects of a large car theft ring investigation. It is maintained numerically by telephone number. It is used to facilitate the development of probable cause for a court-approved wiretap.	Active	No	Yes (2)
Car Ring Theft Working Index	Contains cards on individuals involved in car ring theft cases on which the FBI laboratory is doing examination work.	Active	Yes	No
Cartage Album	Consists of photos with descriptive data of individuals who have been convicted of theft from interstate shipment or interstate transportation of stolen property where there is a reason to believe they may repeat the offense. It is used in investigating the above violations.	Active	No	Yes (3)
Channelizing Index	Consists of cards with the names and case file numbers of people who are frequently mentioned in informant reports. The index is used to facilitate the distributing or channeling of informant reports to appropriate files.	Active	No	Yes (9)
Check Circular File	Consists of fliers filed numerically in a control file on fugitives who are notorious fraudulent check passers and who are engaged in a continuing operation of passing checks. The fliers which include the subject's name, photo, a summary of the subject's method of operation and other identifying data is used to alert other FBI field offices and business establishments which may be the victims of bad checks.	Active	Yes	Yes (43)
Classified Alphabetical Retrieval and Reference Index.	Contains cards on foreign nationals, U.S. citizens and hostile intelligence service targets identified by highly sensitive sources. It is used only for reference and retrieval purposes.	Active	Yes	No

Records Maintained in FBI Field Divisions—FBI field divisions maintain for limited periods of time investigative, administrative and correspondence records, including files, index cards and related material, some of which are duplicated copies of reports and similar documents forwarded to FBI Headquarters. Most investigative activities conducted by FBI field divisions are reported to FBI Headquarters at one or more stages of the investigation. There are, however, investigative activities wherein no reporting was made to FBI Headquarters, e.g., pending cases not as yet reported and cases which were closed in the field division for any of a number of reasons without reporting to FBI Headquarters.

Duplicate records and records which extract information reported in the main files are also kept in the various divisions of the FBI to assist them in their day-to-day operation. These records are lists of individuals which contain certain biographic data, including physical description and photograph. They may also contain information concerning activities of the individual as reported to FBIHQ by the various field offices. The establishment of these lists is necessitated by the needs of the Divisions to have immediate access to pertinent information duplicative of data found in the Central Records without the delay caused by a time-consuming manual search of central indices. The manner of segregating these individuals varies depending on the particular needs of the FBI Division. The information pertaining to individuals who are a part of the list is derivative of information contained in the Central Records System. These duplicative records fall into the following categories:

(1) Listings of *individuals* used to assist in the location and apprehension of individuals for whom legal process is outstanding (fugitives);

(2) Listings of individuals used in the identification of particular offenders in cases where the FBI has jurisdiction. These listings include various photograph albums and background data concerning persons who have been formerly charged with a particular crime and who may be suspect in similar criminal activities; and photographs of individuals who are unknown but suspected of involvement in a particular criminal activity, for example, bank surveillance photographs;

(3) Listings of individuals as part of an overall criminal intelligence effort by the FBI. This would include photograph albums, lists of individuals known to be involved in criminal activity, including theft from interstate shipment, interstate transportation of stolen property, and individuals in the upper echelon of organized crime;

(4) Listings of individuals in connection with the FBI's mandate to carry out Presidential directives on January 8, 1943, July 24, 1950, December 15, 1953, and February 18, 1976, which designated the FBI to carry out investigative work in matters relating to espionage, sabotage, and foreign counterintelligence. These listings may include photograph albums and other listings containing biographic data regarding individuals. This would include lists of identified and suspected foreign intelligence agents and informants;

(5) Special indices duplicative of the central indices used to access the Central Records System have been created from time to time in conjunction with the administration and investigation of major cases. This duplication and segregation facilities access to documents prepared in connection with major cases.

In recent years, as the emphasis on the investigation of white collar crime, organized crime, and hostile foreign intelligence operations has increased, the FBI has been confronted with increasingly complicated cases, which require more intricate information processing capabilities. Since these complicated investigations frequently involve massive volumes of evidence and other investigative information, the FBI uses its computers, when necessary, to collate, analyze, and retrieve investigative information in the most accurate and expeditious manner possible. It should be noted that all investigative information, which is placed in computerized form, is actually extracted from the main files and that the duplicative computerized information is only maintained as necessary to support the FBI's investigative activities. Information from these internal computerized subsystems of the "Central Records System" is not accessed by any other agency. All disclosures of computerized information are made in printed form in accordance with the routine uses which are set forth below.

Records also are maintained on a temporary basis relevant to the FBI's domestic police cooperation program, where assistance in obtaining information is provided to state and local police agencies.

Also, personnel type information dealing with such matters as attendance and production and accuracy requirements is maintained by some divisions.

(The following chart idenifies various listings or indexes maintained by the FBI which have been or are being used by various divisions of the FBI in their day-to-day operations. The chart identifies the list by name, description, and use, and where maintained, i.e., FBI Headquarters and/or Field Office. The number in parenthesis in the field office column indicates, the number of field offices which maintain these. The chart indicates, under "status of index," those indexes which are in current use (designated by the word "active") and those which are no longer being used, although maintained (designated by the word "inactive"). There are 24 separate indices which are classified in accordance with existing regulations and are not included in this chart. The following indices are no longer being used by the FBI and are being maintained at FBIHQ pending receipt of authority to destory: Black Panther Party Photo Index; Black United Front Index; Security Index; and Wounded Knee Album.

Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
Computerized Telephone Number File (CTNF) Intelligence.	Consists of a computer listing of telephone numbers (and subscriber's names and addresses) *utilized by subjects and/or certain individuals which come to the FBI's attention during major investigations of organized crime and gambling matters and the intelligence activities of hostile foreign powers. During subsequent investigations, telephone numbers, obtained through subpoenas, are matched with the telephone numbers on file to determine connections or associations with known foreign agents or organized crime or gambling figures. The subscriber's names and addresses of the telephone numbers in the file are retrievable by name.*	Active	Yes	No
Con Man Index	*Consists of index cards with names of individuals, along with company affiliation, who travel nationally and internationally while participating in large-dollar-value financial swindles.*	*Active*	*Yes*	*No*
Confidence Game (Flim Flam) Album	Consists of photos with descriptive information on individuals who have been arrested for confidence games and related activities. It is used as an investigative aid.	Active	No	Yes (4)
Copyright Matters Index	Consists of cards of individuals who are film collectors and film titles. It is used as a reference in the investigation of copyright matters.	Active	No	Yes (1)
Criminal Intelligence Index	Consists of cards with name and file number of individuals who have become the subject of an antiracketeering investigation. The index is used as a quick way to ascertain file numbers and the correct spelling of names. This index is also maintained in one resident agency.	Active	No	Yes (2)
Criminal Informant Index	Consists of cards containing identity and brief background information on all active and inactive informants furnishing information in the criminal area.	Active	Yes	No
DEA Class I Narcotics Violators Listing	Consists of a computer listing of narcotic violators—persons known to manufacture, supply, or distribute large quantities of illicit drugs—with background data. It is used by the FBI in their role of assisting DEA in disseminating intelligence data concerning illicit drug trafficking. This index is also maintained in two resident agencies.	Active	Yes	Yes (59)
Deserter Index	Contains cards with the names of individuals who are known military deserters. It is used as an investigative aid.	Active	No	Yes (4)
Evidence Control Index	Consists of cards maintained by the FBI laboratory containing the names of suspects victims, etc., in matters which are currently under examination or have undergone examination within the last 3 years. The index is used to facilitate the efficient management of evidence examinations.	Active	Yes	No
Extremist Informant Index	Consists of cards with identity and background data on all inactive extremist informants. It was used as a reference to aid in the supervision of the informant program. This index was discontinued in November 1976.	Inactive	Yes	No
Extremist Photo Album	Consists of photos mounted on pages containing descriptions of known extremist fugitives and informants. All persons in the Key Extremist program were included in this album. Used for ready reference and fugitive identification. This photo album was discontinued in January 1977.	Inactive	Yes	Yes (20)
False Identities Index	Contains cards with the names of deceased individuals whose birth certificates have been obtained by other persons for possible false identification uses and in connection with which the FBI laboratory has been requested to perform examinations.	*Inactive*	Yes	No
False Identities Program List	Consists of a listing of names of deceased individuals whose birth certificates have been obtained after the person's death, and thus whose names are possibly being used for false identification purposes. The listing is maintained as part of the FBI's program to find persons using false identities for illegal purposes.	*Inactive*	No	Yes (31)
False Identity Photo Album	Consists of names and photos of people who have been positively identified as using a false identification. This is used as an investigative aid in the FBI's investigation of false identities.	*Inactive*	No	Yes (2)
FBI Wanted Persons Index	Consists of cards on persons being sought on the basis of Federal warrants covering violations which fall under the jurisdiction of the FBI. It is used as a ready reference to identify those fugitives.	Active	Yes	No
Foreign Counterintelligence (FCI) Asset Index	Consists of cards with identity background data on all active and inactive operational and informational assets in the foreign counterintelligence field. It is used as a reference aid of the FCI Asset program.	Active	Yes	No
Fraud Against the Government Index	Consists of individuals who have been the subject of a "fraud against the Government" investigation. It is used as an investigative aid.	Active	No	Yes (1)
Fugitive Bank Robbers File	Consists of fliers on bank robbery fugitives filed sequentially in a control file. FBI Headquarters distributes to the field offices filers on bank robbers in a fugitive status for 15 or more days to facilitate their location.	Active	Yes	Yes (43)
Gambling Case Listing	Consists of a listing of persons under investigation for gambling on which the FBI laboratory has provided assistance since 1969.	Active	Yes	No

Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
General Security Index	Contains cards on all persons that have been the subject of a security classification investigation by the FBI field office. These cards are used for general reference purposes.	Active	No	Yes (1)
Hoodlum License Plate Index	Consists of cards with the license plates numbers and descriptive data on known hoodlums and cars observed in the vicinity of hoodlum homes. It is used for quick identification of such persons in the course of investigation. The one index which is not fully retrievable is maintained by a resident agency.	Active	No	Yes (3)
Identification Order Fugitive Flyer File	Consists of fliers filed numerically in a control file. When immediate leads have been exhausted in fugitive investigations and a crime of considerable public interest has been committed, the fliers are given wide circulation among law enforcement agencies throughout the United States and are posted in post offices. The fliers contain the fugitive's photograph, fingerprints, and description.	Active	Yes	Yes (49)
Informant Index	Consists of cards with the name, symbol numbers, and brief background information on the following categories of active and inactive informants, top echelon criminal informants, security informants, criminal informants, operational and informational assets, extremist informants (discontinued), plant informant—informants on and about certain military bases (discontinued), and potential criminal informants.	Active	No	Yes (59)
Informants in Other Field Offices, Index of	Consists of cards with names and/or symbol numbers of informants in other FBI field offices that are in a position to furnish information that may be of value to other field offices. Basic background information would also be included on the index card.	Active	No	Yes (15)
Interstate Transportation of Stolen Aircraft Photo Album.	Consists of photos and descriptive data on individuals who are suspects known to have been involved in interstate transportation of stolen aircraft. It is used as an investigative aid.	Active	No	Yes (1)
IRS Wanted List	Consists of one-page fliers from IRS on individuals with background information who are wanted by IRS for tax purposes. It is used in the identification of persons wanted by IRS.	Active	No	Yes (11)
Key Activist Program Photo Album	Consists of photos mounted on pages containing descriptive data on selected individuals advocating civil disobedience and other unlawful and disruptive acts. It was used to intensify the investigative effort on those persons. This index was discontinued in February 1975.	Inactive	Yes	Yes (47)
Key Extremist Program Listing	Contains a listing of selected individuals who were under investigation for extremist activities and on whom investigation was to be intensified. Individuals included those who traveled extensively and called for civil disobedience and unlawful or disruptive acts. It was used to intensify the investigative effort on those persons. This index was discontinued in February 1975.	Inactive	Yes	No
Kidnapping Book	Consists of data, filed chronologically, on kidnappings that have occurred since the early fifties. The victims' names and the suspects, if known, would be listed with a brief description of the circumstances surrounding the kidnapping. The file is used as a reference aid in matching up prior methods of operation in unsolved kidnapping cases.	Active	Yes	No
Known Check Passers Album	Consists of photos with descriptive data of persons known to pass stolen, forged, or counterfeit checks. It is used as an investigative aid.	Active	No	Yes (4)
Known Gambler Index	Consists of cards with names, descriptive data, and sometimes photos of individuals who are known bookmakers and gamblers. The index is used in organized crime and gambling investigations. Subsequent to GAO's review, and at the recommendation of the inspection team at one of the two field offices where the index was not fully retrievable, the index was destroyed and thus is not included in the total.	Active	No	Yes (5)
La Cosa Nostra (LCN) Membership Index	Contains cards on individuals having been identified as members of the LCN index. The cards contain personal data and pictures. The index is used solely by FBI agents for assistance in investigating organized crime matters.	Active	Yes	Yes (55)
Leased Line Letter Request Index	Contains cards on individuals and organizations who are or have been the subject of a national security electronic surveillance where a leased line letter was necessary. It is used as an administrative and statistical aid.	Active	Yes	No
Mail Cover Index	Consists of cards containing a record of all mail covers conducted on individuals and groups since about January 1973. It was used for reference in preparing mail cover requests. This index was discontinued in 1975.	Inactive	Yes	No
Military Deserter Index	Consists of cards containing the names of all military deserters where the various military branches have requested FBI assistance in locating. It is used as an administrative aid.	Active	Yes	No
National Bank Robbery Album	Consists of fliers on bank robbery suspects filed sequentially in a control file. When an identifiable bank camera photograph is available and the case has been under investigation for 30 days without identifying the subject, FBIHQ sends a flier to the field offices to help identify the subject.	Active	Yes	Yes (42)
National Fraudulent Check File	Contains photographs of the signatures on stolen and counterfeit checks. It is filed alphabetically but there is no way of knowing if the names are real or fictitious. The index is used to help solve stolen check cases by matching checks obtained in such cases against the index to identify a possible suspect.	Active	Yes	No
National Security Electronic Surveillance Card File (Institutions).	Contains cards on individuals and organizations on whom a National Security Electronic Surveillance has been instituted. It is used as an administrative and statistical aid.	Active	Yes	No
National Security Electronic Surveillance Card File (Requests).	Contains cards on individuals and organizations on whom a National Security Electronic Surveillance has been requested. It is used as an administrative and statistical aid.	Active	Yes	No
Night Depository Trap Index	Contains cards with the names of persons who have been involved in the theft of deposits made in bank night depository boxes. Since these thefts have involved various methods, the FBI uses the index to solve such cases by matching up similar methods to identify possible suspects.	Active	Yes	No
Organized Crime Photo Album	Consists of photos and background information on individuals involved in organized crime activities. The index is used as a ready reference in identifying organized crime figures within the field offices' jurisdiction.	Active	No	Yes (13)
Photospread Identification Elimination File	Consists of photos of individuals who have been subjects and suspects in FBI investigations. It also includes photos received from other law enforcement agencies. These pictures can be used to show witnesses of certain crimes.	Active	No	Yes (14)
Prostitute Photo Album	Consists of photos with background data on prostitutes who have prior local or Federal arrests for prostitution. It is used to identify prostitutes in connection with investigations under the White Slave Traffic Act.	Active	No	Yes (4)

Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
Real Estate Listings Computer Printout	Consists of a computer printout maintained by name of (a particular city's) real estate listings in Multiple Listing Service for 1974–1975. It was used in connection with an investigation.	Inactive	No	Yes, Springfield, Ill.
Royal Canadian Mounted Police (RCMP) Wanted Circular File.	Consists of a control file of individuals with background information of persons wanted by the RCMP. It is used to notify the RCMP if an individual is located.	Active	No	Yes (17)
Security Informant Index	Consists of cards containing identity and brief background information on all active and inactive informants furnishing information in the criminal area.	Active	Yes	No
Security Subjects Control Index	Consists of cards containing the names and case file numbers of individuals who have been subject to security investigations check. It is used as a reference source.	Active	No	Yes (1)
Security Telephone Number Index	Contains cards with telephone subscriber information subpenaed from the telephone company in any security investigation. It is maintained numberically by the last three digits in the telephone number. It is used for general reference purposes in security investigations.	Active	No	Yes (1)
Selective Service Violators Index	Contains cards on individuals being sought on the basis of Federal warrants for violation of the Selective Service Act.	Active	Yes	No
Skyjack Fugitive Album	Contains photographs with descriptive data of fugitives wanted for skyjacking. It is used as a reference aid in cases where the fugitive may reenter the United States.	Active	Yes	Yes (5)
Sources of Information Index	Consists of cards on individuals and organizations such as banks, motels, local governments that are willing to furnish information to the FBI with sufficient frequency to justify listing for the benefit of all agents. It is maintained to facilitate the use of such sources.	Active	No	Yes (10)
Special Services Index	Contains cards of prominent individuals who are in a position to furnish assistance in connection with FBI investigative responsibilities.	Active	No	Yes (28)
Stolen Checks and Fraud by Wire Index	Consists of cards on individuals involved in check and fraud by wire violations. It is used as an investigative aid.	Active	No	Yes (1)
Stop Notices Index	Consists of cards on names of subjects or property where the field office has placed a stop at another law enforcement agency or private business such as pawn shops in the event information comes to the attention of that agency concerning the subject or property. This is filed numerically by investigative classification. It is used to insure that the agency where the stop is placed is notified when the subject is apprehended or the property is located or recovered.	Active	No	Yes (43)
Surveillance Locator Index	Consists of cards with basic data on individuals and businesses which have come under physical surveillance in the city in which the field office is located. It is used for general reference purposes in antiracketeering investigations.	Inactive	Yes	Yes (2)
Symbionese Liberation Army (SLA) Index	Contains cards with mixed subject entnes such as individuals, weapons, vehicles, etc., thought to have a connection with the SLA. It was used to tabulate and retrieve data relating to SLA activities.	Inactive	Yes	Yes (2)
Telephone Number Index—Gamblers	Contains information on persons identified usually as a result of a subpena for the names of subscribers to particular telephone numbers or toll records for a particular phone number of area gamblers and bookmakers. The index cards are filed by the last three digits of the telephone number. The index is used in gambling investigations.	Active	No	Yes (2)
Telephone Subscriber and Toll Record Check Index.	Contains cards with information on person identified as the result of a formal request or subpena to the phone company for the identity of subscribers to particular telephone numbers. The index cards are filed by telephone number and would also include iden<tity of the subscriber, billing parties identity, subscribers address, date of request from the telephone company, and file number.	Active	No	Yes (1)
Thieves, Couriers, and Fences Photo Index	Consists of photos and background information on individuals who are or are suspected of being thieves, couriers, or fences based on their past activity in the area of interstate transportation of stolen property. It is used as an investigative aid.	Active	No	Yes (4)
Toll Record Request Index	Contains cards on individuals and organizations on whom toll records have been obtained in national security related cases and with respect to which FBIHQ had to prepare a request letter. It is used primarily to facilitate the handling of repeat requests on individuals listed.	Active	Yes	No
Top Burglar Album	Consists of photos and background data of known and suspect top burglars involved in the area of interstate transportation of stolen property. It is used as an investigative aid.	Active	No	Yes (4)
Top Echelon Criminal Informant Program (TECIP) Index.	Consists of cards containing identity and brief background information on individuals who are either furnishing high level information in the organized crime area or are under development to furnish such information. The index is used primarily to evaluate, corroborate, and coordinate informant information and to develop prosecutive data against racket figures under Federal, State, and local statutes.	Active	Yes	No
Top Ten Program File	Consists of fliers, filed numerically in a control file, on fugitives considered by the FBI to be 1 of the 10 most wanted. Including a fugitive on the top 10 usually assures a greater national news coverage as well as nationwide circularization of the flier.	Active	Yes	Yes (44)
Top Thief Program Index	Consists of cards of individuals who are professional burglars, robbers, or fences dealing in items likely to be passed in interstate commerce or who travel interstate to commit the crime. Usually photographs and background information would also be obtained on the index card. The index is used as an investigative aid.	Active	No	Yes (27)
Truck Hijack Photo Album	Contains photos and descriptive data of individuals who are suspected truck hijackers. It is used as an investigative aid and for displaying photos to witnesses and/or victims to identify unknown subjects in hijacking cases.	Active	No	Yes (4)
Truck Thief Suspect Photo Album	Consists of photos and background data on individuals previously arrested or are currently suspects regarding vehicle theft. the index is used as an investigative aid.	Active	No	Yes (1)
Traveling Criminal Photo Album	Consists of photos with identifying data of individuals convicted of various criminal offenses and may be suspects in other offenses. It is used as an investigative aid.	Active	No	Yes (1)
Veterans Administration (VA)/Federal Housing Administrative Matters (FHA) Index.	Consists of cards of individuals who have been subject of an investigation relative to VA and FHA matters. It is used as an investigative aid.	Active	No	Yes (1)
Wanted Fliers File	Consists of fliers, filed numerically in a control file, on badly wanted fugitives whose apprehension may be facilitated by a flier. The flier contains the names, photograph, aliases, previous convictions, and a caution notice.	Active	Yes	Yes (46)
Wheeldex	Contains the nicknames and case file numbers of organized crime members. It is used in organized crime investigations.	Active	No	Yes (1)
White-Collar Crime Index—SBA Loans	Consists of a computer printout of individuals who received an SBA loan in one county because of a flood in 1973. This was used to help determine which loan to investigate for possible fraud.	Inactive	No	Yes, Springfield, Ill.
White House Special Index	Contains cards on all potential White House appointees, staff members, guests, and visitors that have been referred to the FBI by the White House security office for a records check to identify any adverse or derogatory information. This index is used to expedite such checks in view of the tight time frame usually required.	Active	Yes	No
Witness Protection Program Index	Contains cards on individuals who have been furnished a new identity by the U.S. Justice Department because of their testimony in organized crime trials. It is used primarily to notify the U.S. Marshal's Service when information related to the safety of a protected witness comes to the FBI's attention.	Active	Yes	No

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Records Act of 1950, Title 44, United States Code, Chapter 31, Section 3101; and Title 41, Code of Federal Regulations Subpart 101–11.202, requires Federal agencies to insure that adequate and proper records are made and preserved to document the organization, functions, policies, decisions, procedures and transactions and to protect the legal and financial rights of the Federal Government. Title 28, United States Code, Section 534, delegates authority to the Attorney General to acquire, collect, classify, and preserve identification, criminal identification, crime and other records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records, both investigative and administrative, are maintained in this system in order to permit the FBI to function efficiently as an authorized, responsive component of the Department of Justice. Therefore, information in this system is disclosed to officials and employees of the Department of Justice, and/or all components thereof, who have need of the information in the performance of their official duties.

Personal information from this system may be disclosed as a routine use to any Federal agency where the purpose in making the disclosure is compatible with the law enforcement purpose for which it was collected, e.g., to assist the recipient agency in conducting a lawful criminal or intelligence investigation, to assist the recipient agency in making a determination concerning an individual's suitability for employment and/or trustworthiness for access clearance purposes, or to assist the recipient agency in the performance of any authorized function where access to records in this system is declared by the recipient agency to be relevant to that function.

In addition, personal information may be disclosed from this system to members of the Judicial Branch of the Federal Government in response to a specific request, or at the initiation of the FBI, where disclosure appears relevant to the authorized function of the recipient judicial office or court system. An example would be where an individual is being considered for employment by a Federal judge.

Information on this system may be disclosed as a routine use to any state or local government agency directly engaged in the criminal justice process, e.g., police, prosecution, penal, probation and parole, and the judiciary, where access is directly related to a law enforcement function of the recipient agency, e.g., in connection with a lawful criminal or intelligence investigation, or making a determination concerning an individual's suitability for employment as a state or local law enforcement officer. Disclosure to a state or local government agency, (a) not directly engaged in the criminal justice process or, (b) for a licensing or regulatory function, is considered on an individual basis only under exceptional circumstances, as determined by the FBI.

Information in this system may be disclosed as a routine use to an organization or individual in both the public or private sector pursuant to an appropriate legal proceeding, or if deemed necessary to elicit information or cooperation from the recipient for use by the FBI in the performance of an authorized activity. An example would be where the activities of an individual are disclosed to a member of the public in order to elicit his/her assistance in our apprehension or detection efforts.

Information in this system may be disclosed as a routine use to an organization or individual in the public or private sector where there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy, to the extent the information is relevant to the protection of life or property.

Information in this system may be disclosed to legitimate agency of a foreign government where the FBI determines that the information is relevant to that agency's responsibilities, and dissemination serves the best interests of the U.S. Government, and where the purpose in making the disclosure is compatible with the purpose for which the information was collected.

Relevant information may be disclosed from this system to the news media and general public where there exists a legitimate public interest, e.g., to assist in the location of Federal fugitives, to provide notification of arrests, and where necessary for protection from imminent threat of life or property.

A record relating to an actual or potential civil or criminal violation of the copyright statute, Title 17, United States Code, may be disseminated to a person injured by such violation to assist him/her in the institution or maintenance of a suit brought under such title.

The FBI has received inquiries from private citizens and Congressional offices on behalf of constituents seeking assistance in locating individuals such as missing children and heirs to estates. Where the need is acute, and where it appears FBI files may be the only lead in locating the individual, consideration will be given to furnishing relevant information to the requester. Information will be provided only in those instances where there are reasonable grounds to conclude from available information the individual being sought would want the information to be furnished, e.g., an heir to a large estate. Information with regard to missing children will not be provided where they have reached their majority.

Release of information to Members of Congress. Information contained *in this system, the release of which is required by the Freedom of Information-Privacy Acts,* may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information in behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The active main files are maintained in hard copy form and some inactive records are maintained on microfilm. Investigative information which is maintained in computerized form may be stored in memory, on disk storage, on computer tape, or on a computer printed listing.

RETRIEVABILITY:

The FBI General Index must be searched to determine what information, if any, the FBI may have in its files. The index cards are on all manner of subject matters, but primarily a name index of individuals. It should be noted the FBI does not index all individuals that furnish information or names developed in an investigation. Only that information that is considered pertinent and relevant and essential for future retrieval, is indexed. In certain major cases most persons contacted are indexed in order to facilitate the proper administrative handling of a large volume of material. *The FBI is in the process of automating the General Index and, therefore, the retrieval of certain information from the main files will be*

accomplished through the use of peripheral computer equipment, that is, Cathode Ray Tubes (CRTs) and printers. Automation will not change the "Central Records System"; it will only facilitate more economic and expeditious access to the main files. The automated General Index will not cause the "Central Records System" to be interfaced with any other system of records, nor will it allow any outside agency to access FBI information. Since the General Index of all of the field offices will not be automated for quite some time, certain complicated investigative matters are presently supported with special computerized indices which allow retrieval of information from the main files. These special indices are either maintained on printed listings or on disk storage and then accessed through the use of CRTs.

SAFEGUARDS:

Records are maintained in a restricted area and are accessed only by FBI employees. All FBI employees receive a complete background investigation prior to being hired. All employees are cautioned about divulging confidential information or any information contained in FBI files. Failure to abide by this provision violates Department of Justice regulations and may violate certain statutes providing maximum severe penalties of a ten thousand-dollar fine or 10 years' imprisonment or both. Employees that resign or retire are also cautioned about divulging information acquired in the job. *Registered mail is used to transmit routine hard copy records between field offices. Highly classified records are hand carried by Special Agents or personnel of the Armed Forces Courier Service. Highly classified or sensitive privacy information, which is electronically transmitted between field offices, is transmitted in encrypted form to prevent interception and interpretation. Information transmitted in teletype form is placed in the main files of both the receiving and transmitting field offices. Field offices involved in certain complicated investigative matters may be provided with on-line access to the duplicative computerized information which is maintained for them on disk storage in the FBI Computer Center in Washington, D.C., and this computerized data is also transmitted in encrypted form.*

RETENTION AND DISPOSAL:

The Bureau, by its investigative mandate, collects and maintains information from a wide variety of sources. The records support the Bureau's investigative and administrative needs and its obligation to act as a clearinghouse under Executive Order 10450 regarding the security of Government employees. An active destruction program includes microfilming of certain files over 10 years old and researching files, to determine whether they contain sufficient historical, research, investigative, or intelligence value to warrant their retention. The Code of Federal Regulations, Title 41, and Title 44 of the U.S. Code set forth Records Management procedures to be followed by government agencies in relation to their records. All agencies are required to retain any material made or received during the course of public business which has been preserved or is appropriate for preservation. Accordingly, disposition of records material must be in accordance with established regulations. Subsequent destruction is accomplished through authority granted by National Archives and Records Service, GSA, utilizing either the General Records Schedules or a specific request for record destruction which is approved by the Archivist. Records are also destroyed or returned to source as a result of Court Order. Subsequent to January 27, 1975, a Congressional moratorium on all destruction, and a later decision rendered on further retention of security and intelligence material, has substantially reduced the tangible effects of the destruction program. *Hard copy computer printed listings of investigative information which have been placed in the main files are retained in accordance with the established regulations for all information in the "Central Records System." Computerized information, restricted to internal FBI use to support its need to collate, analyze, and retrieve investigative information from the main files, is disposed of when it is no longer required.*

SYSTEM MANAGER(S) AND ADDRESS:

Director; Federal Bureau of Investigation; Washington, D.C. 20535.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

A request for access to a record from the system shall be made in writing with the envelope and the letter clearly marked "Privacy Access Request". Include in the request your full name, complete address, date of birth, place of birth, notarized signature, and other identifying data you may wish to furnish to assist in making a proper search of our records. Also include the general subject mater of the document or its file number. The requester will also provide a return address for transmitting the information. Access requests *can be addressed* to the Director, Federal Bureau of Investigation, Washington, D.C. 20535, *or individually to one or more of the FBI field divisions or Legal Attaches listed in the appendix to this system notice.*

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should also direct their request to the Director, Federal Bureau of Investigation, Washington, D.C. 20535, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The FBI, by the very nature and requirment to investigate violations of law within its investigative jurisdiction and its responsibility for the internal security of the United States, collects information from a wide variety of sources. Basically it is the result of investigative efforts and information furnished by other Government agencies, law enforcement agencies, and the general public, informants, witnesses, and public source material.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3)(d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e) (5) and (8), (f), (g), of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k), Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and *are being published in the proposed rules section of today's* **Federal Register.**

Appendix of Field Divisions for the Federal Bureau of Investigation Field Office

502 U.S. Post Office and Court House, Albany, N.Y. 12207.
4303 Federal Office Building, Albuquerque, N. Mex. 87101.
Room 500, 300 North Lee Street, Alexandria, Va. 22314.
Room 238, Federal Building, Anchorage, Alaska 99510.
275 Peachtree Street, N.E., Atlanta, Ga. 30303.
7142 Ambassador Road, Baltimore, Md. 21207.
Room 1400–2121 Building, Birmingham, Ala. 35203.
John F. Kennedy Federal Office Building, Boston, Mass. 02203.
Room 1400–111 West Huron Street, Buffalo, N.Y. 14202.
115 U.S. Court House and Federal Building, Butte, Mont. 59701.

1120 Jefferson Standard Life Building, Charlotte, N.C. 28202.
Room 905, Everett McKinley Dirksen Building, Chicago, Ill. 60604.
400 U.S. Post Office and Court House Building, Cincinnati, Ohio 45202.
3005 Federal Office Building, Cleveland, Ohio 44199.
1529 Hampton Street, Columbia, S.C. 29201.
Room 200, 1810 Commerce Street, Dallas, Tex. 75201.
Room 18218, Federal Office Building, Denver, Colo. 80202.
Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, Mich. 48226.
202 U.S. Court House Building, El Paso, Tex. 79901.
Kalanianaole Federal Building, Room 4307, 300 Ala. Moana Boulevard, Honolulu, Hawaii 96850.
6015 Federal Building and U.S. Court House, Houston, Tex. 77002.
575 North Pennsylvania Street, Indianapolis, Ind. 46202.
800 Unifirst Federal Savings & Loan Building, Jackson, Miss. 39205.
Oaks V. Fourth Floor, 7820 Arlington Expressway, Jacksonville, Fla. *32211*
Room 300–U.S. Courthouse, Kansas City, Mo. 64106.
Room 800, 1111 Northshore Drive, Knoxville, Tenn. 37919.
Room 2–011, Federal Office Building, Las Vegas, Nev. 89101.
215 U.S. Post Office Building, Little Rock, Ark. 72201.
11000 Wilshire Boulevard, Los Angeles, Calif. 90024.
Room 502, Federal Building, Louisville, Ky. 40202.
841 Clifford Davis Federal Building, Memphis, Tenn. 38103.
3801 Biscayne Boulevard, Miami, Fla. 33137.
Room 700, Federal Building and U.S. Court House, Milwaukee, Wis. 53202.
392 Federal Building, Minneapolis, Minn. 55401.
520 Federal Building, Mobile, Ala. 36602.
Gateway I, Market Street, Newark, N.J. 07101.
Federal Building, 170 Orange Street, New Haven, Conn. 06510.
701 Loyola Avenue, New Orleans, La. 70113.
26 Federal Plaza, New York, N.Y. *10007.*
Room 300, 870 Military Highway, Norfolk Va. 23502.
50 Penn Place, N.W., 50th at Pennsylvania, Oklahoma City, Okla. 73118.
Room 7401, Federal Building, 215 North 17th Street, Omaha, Nebr. 68102.
8th Floor, Federal Office Building, 600 Arch Street, Philadelphia, Pa. 19106.
2721 North Central Avenue, Phoenix, Ariz. 85004.
1300 Federal Office Building, Pittsburgh, Pa. 15222.
Crown Plaza Building, Portland, Oreg. 97201.
200 West Grace Street, Richmond, Va. 23220.
Federal Building, 2800 Cottage Way, Sacramento, Calif. 95825.
2704 Federal Building, St. Louis, Mo. 63103.
3203 Federal Building, Salt Lake City, Utah 84138.
433 Federal Building, Box 1630, San Antonio, Tex. 78296.
Federal Office Building, Room *6S31, 880* Front Street, San Diego, Calif. 92188.
450 Golden Gate Avenue, San Francisco, Calif. 94102.
U.S. Courthouse and Federal Building, Room 526, Hato Rey, P.R. 00918.
5401 Paulson Street, Savannah, Ga. 31405.
915 Second Avenue, Seattle Washington 98174.
535 West Jefferson Street, Springfield, Ill. 62702.
Room 610, Federal Office Building, Tampa, Fla. 33602.
Washington Field Office, Washington, D.C. 20535.
Federal Bureau of Investigation Academy, Quantico, Va. 22135.
Legal Attache (AH c/o the American Embassy for the Cities Indicated):
Bern, Switzerland.
Bonn, Germany (Box 310, APO, New York 09080).
Buenos Aires, Argentina.
Caracas, Venezuela (APO, New York 09893).
Hong Kong, B.C.C. (FPO, San Francisco 96659).
London, England (Box 40, FPO, New York 09510).
Manila, Phillippines (APO, San Francisco 96528).
Mexico City, Mexico.
Ottawa, Canada.
Paris, France (APO, New York 09777).
Rome, Italy (APO, New York 09794).
Tokyo, Japan (APO, San Francisco 96503).

[FR Doc. 79-31231 Filed 10-11-79; 8:45 am]
BILLING CODE 4410-02-M

[AAG/A Order No. 33-79]

Privacy Act of 1974; Notice of New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to establish a new system of records to be maintained by the United States National Central Bureau (Department of Justice) of the International Criminal Police Organization. Further, in the Proposed Rules Section of today's **Federal Register**, the United States National Central Bureau proposes to exempt the system from the provisions of subsections (c)(3) and (4), (d), (e)(1), (2), and (3), (e)(4) (G) and (H), (e) (5) and (8), (f), and (g) of the Privacy Act, 5 U.S.C. 552a. The purposes of the exemptions is to maintain the confidentiality and security of information compiled for purposes of criminal investigations or civil or regulatory law enforcement or of reports complied at any stage of the law enforcement process.

The Criminal Investigative Records System (JUSTICE/DAG–007) is a new system of records for the Department of Justice. Prior public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) was published in the **Federal Register**, Vol. 43, No. 183, on September 20, 1978, as TREASURY/OS 00.101.

5 U.S.C. 552a(e) (4) and (11) require that the public be provided a 30-day period in which to comment; the Office of Management and Budget (OMB), which has oversight responsibility under provisions of the Act, requires a 60-day period in which to review the system before it is implemented. Therefore, the public, OMB, and the Congress are invited to submit written comments on this system. If no comments are received from either the public, OMB, or the Congress on or before December 11, 1979, the system will be implemented without further notice in the **Federal Register**, except that the final rule exempting the system will be published after 60 days. No oral hearings are contemplated.

A report of the proposed system has been provided to the Director, OMB, to the President of the Senate, and to the Speaker of the House of Representatives.

Dated: September 27, 1979.

Kevin D. Rooney,
Assistant Attorney General for Administration.

JUSTICE/DAG–007

SYSTEM NAME:

The United States National Central Bureau (USNCB) (Department of Justice) of the International Criminal Police Organization (INTERPOL) Criminal Investigative Records System.

SYSTEM LOCATION:

Department of Justice, Room 6649, 9th and Pennsylvania Avenue, NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been convicted or are subjects of a criminal investigation with international aspects; specific missing persons; specific deceased persons in connection with death notices; individuals who may be associated with certain weapons, motor vehicles, artifacts, etc., stolen and/or involved in a crime; victims of criminal violations in the United States or abroad; and USNCB personnel involved in litigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information concerning fugitives, wanted persons, lookouts (temporary and permanent), specific missing persons, deceased persons in connection with death notices. Information about individuals includes name, alias, date of birth, address, physical description, various identification numbers, reason for the record or lookout, and details

and circumstances surrounding the actual or suspected violation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 263a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM:

Information is used by the following categories of users to conduct or to assist in the conduct of criminal investigations by law enforcement agencies in the United States and abroad. Local, State, and Federal agents and employees of the United States National Central Bureau of INTERPOL who have a need for the records in the performance of their duties; law enforcement agencies and criminal justice agencies in the United States and abroad; INTERPOL General Secretariat and INTERPOL National Central Bureaus in member countries; employees and officials of financial and commercial business firms and private individuals where such release is considered reasonably necessary to obtain information to further investigative efforts or to apprehend criminal offenders; and translators of foreign languages as necessary.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: Information is stored in file folders and on magnetic disks at the United States National Central Bureau and is accessed only by USNCB–INTERPOL personnel except that certain limited data, i.e., that which concerns fugitives and wanted persons, is stored in the Treasury Enforcement Communications System (TECS), TREASURY/OS 00.102, which is accessed by all law enforcement agencies.

RETRIEVABILITY: Information is retrieved primarily by name, file number, system identification number, personal identification number, and by weapon or motor vehicle number.

RETENTION AND DISPOSAL: Upon inactivity for five years the case file is destroyed except for judicial case files involving personnel in the USNCB. These files are retained for 20 years from the date of the judicial action. Files on deceased persons are destroyed within one year of the person's death. Certain records, such as death notifications and missing person records, are normally destroyed within the year after the matter is received and/or resolved. Records not of continuing interest may be destroyed at any time. Disposal of records is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, United States National Central Bureau, INTERPOL, Department of Justice, Room 6649, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Inquiries regarding whether the system contains a record pertaining to an individual may be addressed to the Chief, United States National Central Bureau, INTERPOL, Department of Justice, Room 6649, 9th and Pennsylvania Avenue, N.W., Washington, D.C. 20530. To enable INTERPOL to identify whether the system contains a record relating to an individual, the requester must submit a written request identifying the record system, identifying the category and type of records sought, and providing the individual's full name and at least two items of secondary information (date of birth, social security number, employee identification number, or similar identifying information).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has proposed exemption of this system from subsections (c)(3) and (4), (d), (e)(1), (2), and (3), (e)(4)(G) and (H), (e)(5) and (8), (f), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c), and (e) and are being published in the Proposed Rules Section of today's **Federal Register.**

[FR Doc. 79-31233 Filed 10-11-79; 8:45 am]

BILLING CODE 4410-01-M

Law Enforcement Assistance Administration

Response to Public Comment and Notice of Issuance of LEAA Program Announcement—Youth Advocacy Initiative

AGENCY: Law Enforcement Assistance Administration (LEAA).

ACTION: Response to Public Comment and Notice of Issuance.

SUMMARY: This guideline represents an addition to M 4500.1G, Guide for Discretionary Grant Programs, and as such will be subject to the same regulations which govern that manual. It will not in any way impact upon the programs or regulations presently set out in M 4500.1G, nor will it effect the eligibility of those individuals applying for previously announced programs.

SUPPLEMENTARY INFORMATION: The Office of Juvenile Justice and Delinquency Prevention, (OJJDP), Law Enforcement Assistance Administration (LEAA), published in the **Federal Register** on June 15, 1979, the draft Guideline for the program announcement of competitive action grants for the Youth Advocacy Initiative. This notice summarizes the comments received, responds to issues, details the changes made, and sets forth the final program Guideline.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Wallach at 202–724–7765, Office of Juvenile Justice and Delinquency Prevention, LEAA, 633 Indiana Avenue, NW., Washington, D.C. 20531.

Nature of Comments and LEAA's Response

The Office of Juvenile Justice and Delinquency Prevention received 233 responses to the Youth Advocacy Initiative Draft Guideline published in the June 15, 1979 **Federal Register.** A brief analysis of these comments shows that numerous commentors supported the program and offered suggestions for substantive and technical modification, and a substantial number of commentors expressed opposition to the government becoming involved in issues which involve the family or local/state organizations; 26 commentors objected to the restriction on the eligibility of national organizations and the operation of multi-state focused grants, 8 were supportive of this restriction and limitation; 8 commentors supported the emphasis on youth participation as an essential program strategy in all applications; 3 commentors stated that the strategy was overemphasized and unrealistic; 15 commentors suggested that legal advocacy be strengthened or specifically included in the final Guideline, and 1 commentor suggested that legal advocacy was an inappropriate strategy.

Comments were received from 100 private organizations, 98 private citizens, 16 local units of government, 9 state agencies and 8 State Planning Agencies. The comments received and LEAA's response follows:

I. Applicant Eligibility

A. *Application by National Organizations to Implement Multi-Site Projects*

There were approximately 25

comments concerning the eligibility of national groups and organizations to implement multi-site projects.

Based on the above concerns, OJJDP has decided that national organizations are eligible to participate in this initiative but those that choose to operate in more than one state, must clearly describe the strategy for impact; Examples of acceptable strategies are:

1. They must operate in a state of community wherein they have a local affiliate or an already established organizational linkage; or demonstrate their acceptability to work in the respective states as an advocacy group.

2. The applicant must expend a majority of the funds received under this initiative through local or state affiliates for operational expenses. This program is designed to aid large numbers of youth, and therefore a majority of funds should be spent at the implementation level where they can have the most impact. National Organizations will be allowed to retain funds for overall administration, coordination and resource development and support; however, those organizations passing on a greater share of funds will be considered to be more responsive.

The reasons for the above decision follow. OJJDP agrees that:

1. The failure to allow for two-state, regional, or multi-state projects inhibits the implementation of the congressional policy of developing a national effort to combat juvenile delinquency.

2. The draft initiative removed from consideration a great number of national and regional organizations with substantial track records in the area of child advocacy, and may have rejected successful models for Youth Advocacy.

3. The emphasis of the initiative, as stated in the program objectives section, is to sponsor "a major program to develop, test and support methods of advocacy which stimulate and facilitate needed changes and enhanced accountability in the administration of justice." By creating the one state limitation on applications, the draft initiative limited OJJDP's ability to fully test various advocacy methodologies. A number of multi-state Youth Advocacy Programs currently exist whose models should be examined.

4. Multi-state projects can be effective and efficient. Given their centralized administration, accounting, research capability, and decision-making, such programs can be adaptable, productive, responsive and sophisticated.

B. There were several comments objecting to the *eligibility of public agencies.*

These objections stated that it would be impossible for public agencies as part of "the system" to effect change. OJJDP decided to allow for applications by both public and private not-for-profit organizations for the following reasons:

1. There are many public organizations, agencies, or offices which have been established legislatively or otherwise for the specific purpose of advocating for youth and creating changes within the system intended for impact.

2. To disallow application by public agencies would presume that it is only the public sector that needs improvement and, in addition, that the public sector is incapable of achieving systems change.

C. Several comments indicated that the *language in the "Applicant Eligibility"* section, "which are in no way affiliated with the organizations and institutions they intend to impact," was unclear and limiting. In response to these comments, OJJDP has rewritten the "Applicant Eligibility" statement to read as follows:

"Applications are invited from public and private not-for-profit agencies and organizations which are functionally independent of organizations and institutions they intend to impact." The intent of this stipulation is to insure the applicant's ability to function independently, remain objective, and prevent structural relationship barriers from impeding positive change and improvements in the statutes, policies, and practices of the systems to be impacted.

D. Several commentors suggested that applicant organizations be required to have *two years experience* in the advocacy field in order to be eligible.

OJJDP determined that as long as the project staff could demonstrate adequate individual and collective knowledge and experience in system change and familiarity with those systems to be targeted, this would be sufficient demonstration of required experience.

II. Criteria for Selection of Projects

In response to recommendations, OJJDP has reorganized and altered the Criteria for Selection of Projects as follows:

A. OJJDP has eliminated the first selection criteria in the draft Guideline, "the extent to which applicants meet the capability and eligibility requirements as outlined in paragraph c(3)(1)" because ineligible applications cannot be considered for selection.

B. OJJDP has rewritten Selection Criteria (f) in the draft Guideline to avoid any duplication and to provide clarification. It now reads: "The extent to which the applicant demonstrates its capability to successfully carry out the project through use of available key personnel with essential skills and experience." (20 points)

C. OJJDP has added the following two criteria in order that the Application Requiements section more closely parallel the Selection Criteria:

"The extent to which the applicant provides a clear plan for taking specific actions reasonably designed to accomplish measureable project objectives." (15 points)

"The extent to which the applicant demonstrates its ability to develop necessary management, fiscal, and information systems." (5 points)

D. OJJDP has reallocated the points to provide for a total amount that is less cumbersome in review procedures.

E. OJJDP has added the following to Section e. *Selection Criteria:* "All other criteria being equal cost effectiveness will be used in making final selections and geographic distribution."

III. Youth Participation

OJJDP received eight (8) comments both supportive and non-supportive, concerning youth participation. Some commentors felt that youth do not have enough experience to be involved in program planning and implementation, while others felt that it was imperative that youth involvement be stressed. In most cases commentors requested further clarification.

A. OJJDP decided to retain "youth participation" as an important project element, and to add to the guidelines that youth participation must be "meaningful". OJJDP regards involvement of youth in meaningful roles as necessary not only for reducing antisocial behavior, but also for ameliorating long-term social problems. Society often de-values youth by denying them those roles that have long-term career potential or immediate personal gratification.

Instead of assuming that young people are incapable of acting on thier own or contributing to the problem-solving process, applicants must acknowledge youth's abilities, value their inputs and encourage their participation in all aspects of American society. For the purposes of the project, meaningful youth participation can be implemented through significant involvement in planning, project design, program development and implementation and evaluation. In addition, with appropriate training commensurate with their interests, abilities and growth potential, youth can learn about community organizing, problem solving, action

planning and implementation, data collection and analysis, survey taking, understanding bureaucracies and the political system, and other types of activities important to advocating on behalf of their peers.

B. A definition of "youth participation" was added to the section on "Definitions" as follows: "Youth Participation is defined as 'involving youth in responsible, challenging action, that meets genuine needs, with opportunity for planning and/or decision making affecting others, in an activity whose impact or consequences extends to others, i.e., outside or beyond the youth participants themselves' (Judge Mary Conway Kohler)."

IV. Multi-System Focus

There were approximately 15 comments which encouraged the support of applications proposing to deal with more than one of the three systems (juvenile justice, social services, eductation) targeted for advocacy program intervention. Due to the arguments set forth in support of allowing expereinced program to focus on more than one system OJJDP has changed, "Section C. Program strategy (1) Program Design" of the guideline to read as follows: "Applications are invited for action projects which will influence one or more of the three systems described in b(4), e.g., juvenile justice, social service, and/or education. Projects are expected to support the extent an nature of their system(s) focus in the Program Methodology section and the Problem Definition and Data Needs section of the application narrative".

V. Legal Advocacy

A. OJJDP received 16 comments regarding concern that no specific mention is made of legal advocacy as a viable program approach. Some of these comments suggested that the program description section of the guideline be expanded specifically to include legal advocacy.

OJJDP would like to note that the intent has always been to include legal advocacy and OJJDP concurs with the above suggestion because public and private coalition building and youth participation strategies can be strengthened by supportive legal advocacy efforts which protect the rights of children and youth. For further clarification, OJJDP has added "legal advocacy" to the guideline as an approach under the program description section as follows:

(3) "Effective legal advocacy in the support of the above two approaches for the purpose of protecting the interests and rights of children and youth."

B. On another facet of this issue, one comment objected to the following limitation: *"Projects which focus solely upon providing advocacy, representation or service to individual youth on a case by case basis will be considered unresponsive."*

While legal support is an essential element of advocacy strategies, it is important to distinguish legal assistance to individual youth on a case by case basis (direct services) from legal support which involves the selection of cases for the purpose of contesting or establishing principles, policies and practices affecting classes of youth such as dropouts and pushouts, incarcerated youth, truants and others. For the purpose of this guideline the primary emphasis is on the latter type of legal support because of the potential capacity to facilitate broad based change in systems to be impacted. Therefore, the limitation will remain unchanged. However, for the purpose of clarification, the term legal advocacy has been added to the definition section as follows: "Legal advocacy is an approach whereby test case litigation or representation is used to advocate for the interests and protect the rights of a given group or class of youth and seek systems change for the entire class of youth.

VI. Participation of Influential Individuals and Groups

Several commentors objected to the requirement that projects need incorporate as part of their strategy "extensive participation by influential and interested persons from various community sectors. . . ." As a result of these comments OJJDP has changed this section to read ". . . participation by interested persons from various community sectors. . . ." OJJDP decided that participation is essential for effective advocacy programs, however, OJJDP also realizes that the requirement that the participation be from "influential" individuals or groups may weaken rather than strengthen advocacy efforts, depending upon their relationship to the system(s) targeted for change.

VII. SPA Coordination and Approval

Several commentors expressed concern over the role of the State Planning Agencies (SPA) in the development and approval of applications, and in addition, requested clarification of "coordination with the SPAs." In accordance with the Guideline for Discretionary Grants, M4500.1G, Appendix 2, page 2, OJJDP has altered the guideline to read: "Applicants must consult with the State Planning Agency of their State before making application for funds to LEAA. . . . Applicants are encouraged to review the most recent Comprehensive State Plan produced by the State Planning Agency and to request a conference with the SPA to discuss the proposed project. The conference should also include regional and/or local planning unit representatives." In addition, when the application is submitted to the Office of Juvenile Justice and Delinquency Prevention, *it must be submitted to the SPA at the same time for review and comments.*

VIII. Dollar Amounts

Several comments stated that the projected maximum levels of funding were: too high, too low, or adequate. After due consideration OJJDP has decided that the maximum amount allowable for all grants will be $750,000 for a two year period, with cost effectiveness being a major consideration.

This decision was made based on the wide range of strategies and the diverse areas that could be labelled "local" or "statewide" and the corresponding possible costs.

IX. Travel and Coordination Among Projects

There were several recommendations that more money be allowed in the budgets for coordination and information sharing among projects.

In response to those comments, a decision was made to allow projects to budget up to 2 trips per year for such purposes. One of these trips per year will be for attendance at an OJJDP sponsored conference for all OJJDP advocacy grantees.

X. Direct Service vs. System Change

There were a couple of comments recommending that direct services be allowed in these projects as well as a number of comments supporting the proposed strategy of systems change.

Because the focus of this initiative is on broad based change for large numbers of youth who are affected by statutes, policies, and practices of the targeted systems rather than on the delivery of direct services to individuals or small groups of youth, the focus will remain the same.

XI. Technical Changes

A substantial number of commentors suggested minor technical changes to make the guideline clearer. These changes were made where feasible.

XII. Management Information Systems (MIS)

There were several requests for clarification of the Management Information System (MIS). In response to those requests the following has been included under g. *Evaluation Requirements.*

In addition each application must indicate the capability of developing a management information system. The Management Information System (MIS) must be capable of providing data on:

(1) The system(s) covered by the projects;

(2) The types of activities/programs undertaken to reach specific project objectives;

(3) Types of interventions (programmatic/activities) undertaken under specific conditions for different systems; and,

(4) The immediate results produced by advocacy program intervention.

The evaluator will assist the grantees in establishing an MIS System.

XIII. Opposition to Federal Support for Advocacy Activities

A good number of comments indicated opposition to the guideline and recommended that it be cancelled. The opinion most often expressed was that taxpayers dollars should not be used to support youth advocacy activities because the guideline represented more government control and regulative authority over the private sector.

The following excerpts are illustrative of the misconceptions expressed in the comments as to the intent of the youth advocacy guideline initiative:

1. "To assume authority or control over public and private youth serving organizations"

2. "To interfere with successful programs governed by volunteer boards to lay citizens"

3. "To take away rights of parents"

4. "To take over the running of the family"

5. "To create funded ad hoc groups whose basic function would be to criticize and who would do nothing to accomplish the objectives of the program."

The intent of this guideline is to carry out the mandate of the Congress in accordance with the 1977 Amendments to the Juvenile Justice and Delinquency Prevention Act of 1974, Section 224(a)(7) which states, "develop and support programs stressing advocacy activities aimed at improving services to youth impacted by the juvenile justice system". This program recognized that in order to achieve this objective it is essential that improvements in the education and social service system(s) result from advocacy activities.

As stated in the Background Paper, Appendix 3 of the Program Announcement, the rationale for youth advocacy rests on a number of assumptions (Knitzer, 1976:200).

It assumes that youth have certain basic rights, the most important of which is access to appropriate developmental opportunities. In the past and, to a certain extent at present, youth were regarded as being entitled only to what their family was able to secure for them.

Youth Advocacy assumes that rights are enforceable by statutory, administrative, judicial, or other structured procedures. Experience demonstrates that adults with broad discretion to make decisions affecting the lives of young people sometime make errors. Advocacy activities assume processes exist or can be developed to rectify these errors. Youth Advocacy focues on systems or institutions that impinge on the lives of young people.

Youth Advocacy assumes young people individually do not have the power to insure that their basic rights are effectively protected. They seldom have enough money of their own to carry on sustained advocacy efforts. In our society young people are conditioned to accept a passive, not assertive, posture vis-a-vis adults. Many adults in positions of responsbility tend to discount the views of young people if these views differ from their own. Youth is a transitional state which militates against sustained advocacy efforts by youth alone. Their time is limited particularly by educational responsibilities. They seldom have experience in the techniques of advocacy. For these reasons advocacy on behalf of youth is essential to effectively secure their basic rights.

The need for youth advocacy increases as institutions gain influence over the lives of the young. Due to industrialization and urbanization, institutions such as the school system, the employment network, the juvenile justice system, and human service systems replaced and supplemented the family in influencing the development of young people. All of these systems are naturally subject to the inherent impersonal and inflexible character of complex bureaucracies. Advocacy efforts are needed to protect the rights of all, particularly, low income and minority youth when the institution is not serving young people's needs. The recent period of rapid social change undoubtedly has contributed to the heightened interest in advocacy activities.

Juvenile Justice and Deliquency Prevention Programs, Youth Advocacy

a. *Program Objectives.* Pursuant to the 1977 Amendments to the Juvenile Justice and Delinquency Prevention Act of 1974, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is sponsoring a major program to develop, test and support methods of advocacy which stimulate and facilitate needed changes and enhanced accountability in the administration of juvenile justice and the delivery of education and social services. The specific objectives are:

(1) To realize specific system reforms at the state and local levels leading to greater availability and better quality of services to youth by juvenile justice, education and social service agencies and institutions; and,

(2) To increase knowledge about elements essential to development and implementation of effective youth advocacy projects in order to facilitate replication of such projects in other states and localities.

b. *Program Description.*

(1) Background. Youth advocacy is a process whereby the administration of juvenile justice, social service and education can be improved through the active support and representation of youth interests and needs by advocacy groups. Advocacy approaches which are the major thrusts of this program include, but are not limited to: 1) effective coalition building among public and private groups and organizations to impact the needs of youth; 2) meaningful youth participation in policy decisions affecting youth for the purpose of better defining youth needs and impacting on the policies, practices and utilization of funds in youth serving institutions; and, 3) effective legal advocacy in support of the above two approaches for the purpose of protecting the interests and rights of children and youth.

(2) *Problem Addressed.* In an era of diminishing resources the effective use of existing funds takes on added significance. Moreover, advocacy on behalf of a disenfranchised population becomes of critical significance if they are to realize their fair share of available resources. In its passage of the JJDP Act of 1974, and in the 1977 Amendments, Congress recognized that the major youth serving institutions—the juvenile justice, educational and social service systems—have proven inadequate in meeting the needs of youth. This program is aimed at challenging policies and practices of youth serving institutions that systematically exclude youth from

meaningful participation in programs that supposedly exist for them, and as a consequence provide services which are not responsive to the real needs of youth. These institutions have contributed to the inability of youth to survive and compete in society, and to their alienation, isolation and delinquency. The major areas of concern include: a) Lack of accessibility to quality services; b) Lack of due process safeguards in agency proceedings; c) Inequitable and improper classification and disposition of youth cases; d) Lack of accountability of agency officials; e) Adverse elements in statutes, agency regulations, and procedures affecting youth; and, f) Lack of resources, and inequitable deployment of resources for youth programs.

(3) *Program Target.* The targets for this program are statutes, regulations, policies and practices of the juvenile justice system, education system and the social services system, which are insensitive or detrimental to the needs and best interests of youth.

(4) *Results Sought.* Results sought in this initiative are:

(a) *Juvenile Justice System Changes.*

(1) The adoption of practices, procedures, policies, and statutes which provide accurate classifications and equitable disposition of cases handled by the juvenile justice system.

(2) Establishment of policies, practices, and statutes which safeguard the rights of youth, assure due process, strengthen family ties, and reduce inappropriate intervention into the lives of youth and their families.

(3) Adoption of statutes, policies, practices and procedures which provide for and safeguard the rights of institutionalized youth to quality rehabilitative services, education, vocational training and humane treatment.

(4) The allocation of new, and reallocation of existing Federal, state, and local resources to increase and improve required services which reduce the inappropriate placement of juveniles outside of their homes and communities.

(b) *Social Service System Changes.*

(1) Increase public support for increased resources for youth services, protection of the rights of youth and quality services.

(2) Modification and adoption of procedures and eligibility criteria which increase access to social services for youth, and modification of those policies and practices of youth serving institutions which are adverse to the positive development of youth.

(3) redefinition of agency priorities, and allocation of new and reallocation of existing public and private resources, to increase and improve appropriate services to which youth are entitled.

(4) Establishment of mechanisms for public accountability of youth serving agencies.

(c) *School System Changes.*

(1) Modification of policies and practices which limit full education oppportunities for youth, e.g., tracking, ability-grouping.

(2) Adoption of school policies, procedures and practices which limit pushouts and dropouts and limit the number of suspensions and expulsions.

(3) Adoption of school policies, procedures and practices which limit referrals of youth to the juvenile justice system.

(4) Establishment of policies, procedures and practices which provide for the protection of rights and assure due process in disciplinary actions.

(5) Adoption of innovative educational programs and approaches for youth who require special assistance.

(5) *Working Assumptions.* (a) Juvenile justice in the United States can be improved through advocacy in behalf of youth.

(b) Many problems associated with preventing juvenile delinquency and reducing youth crime involve youth serving institutions and organizations not located within the formal juvenile justice system. Therefore, advocacy activities must be aimed at the education system and the social services system as well as justice system agencies.

(c) Independent organizations employing methods of advocacy can stimulate and facilitate needed changes in juvenile justice agencies, social service agencies and schools. Such advocacy will complement and strengthen reform initiatives arising from within these agencies.

(d) Youth serving institutions' responses to the needs of youth will improve with meaningful youth involvement in the planning, operation and evaluation of policies and programs. Youth in the juvenile justice system those alienated from school systems and those placed away from their families should play a vital role in youth advocacy programs.

c. *Program Strategy.*

(1) *Program Design.* Applications are invited for action projects which influence one or more of the three systems described in b(4), i.e., juvenile justice, social services, or education. Projects are expected to support the extent and nature of their system(s) focus in the Program Methodology Section and the Problem Definition and Data Needs Section of the Application Narrative.

Projects are to reflect the following characteristics:

(a) Selective, limited involvement in case advocacy for the purpose of contesting or establishing principles, policies and practices affecting classes of youth, as one element of the advocacy strategy is acceptable. Projects which focus *solely upon providing advocacy, representation* or *service to individual youth on a case by case basis will be considered unresponsive.*

(b) Goals and objectives must have primary impact upon: (1) local juvenile justice, social service or education agencies and/or; (2) state legislatures, state elected and appointed officials and state juvenile justice, social service, or educational agencies/organizations or systems. National organizations may apply but must operate in a state or community wherein they have a local affiliate or an already established organizational linkage or can demonstrate their acceptability to work in that state as an advocacy group. In addition, a majority of the funds received under this initiative are to be expended through local organizations for operational expenses.

(c) Projects must incorporate four key elements: (1) Functional independence from the organization(s)/system(s) in which change will be sought; (2) Participation by interested persons from various community sectors, (government, business, political, industry, labor, churches, indigenous neighborhood groups, etc.); (3) Extensive and meaningful participation by youth of the population to be affected by the project in project design, planning and implementation (e.g. staff, consultants, advisors, investigators, board members, negotiators, etc.); youth employed by projects must reside in or have extensive experience with neighborhoods having high levels of crime and socio-economic disadvantage; and (4) The employment of skillful staff, knowledgeable and experienced both with respect to the system in which change is sought and with respect to problems associated with system change and advocacy.

(d) Action plans must be specific and manageable with respect to anticipated change and must include but not be limited to the following:

(1) Community education activities which foster public understanding of the needs of youth, clarify the associated issues, and build consensus about what to do to meet these needs through the use of a variety of communications and media techniques.

(2) Regular review of public and private youth serving institutions to: protect the rights of youth, assure that existing laws and policies mandating appropriate services to which youth are entitled are enforced and, identify policies and practices which are harmful to youth.

(3) Review and analysis of existing and proposed statutes, and expert testimony to facilitate responsiveness of decision makers to the needs of youth for positive development.

(4) Approaches which utilize administrative negotiation to facilitate systems change.

(2) *Dollar Range, Duration of Grants.* The grant period for this program is three years with awards made in increments of 24 months and 12 months. Third year continuation awards are contingent upon satisfactory grantee performance in achieving stated objectives in the previous program year(s), availability of funds and compliance with the terms and conditions of the grants. Grants will range up to $375,000, for each project year with the amount of funding for each grant based upon: (a) The types of statutes, policies and practices to be addressed; (b) The potential for impact on large numbers of youth; and (c) The cost-effectiveness of the project design. Total funds allocated for this program: $7.3 million. Funds for this program are allocated from the Juvenile Justice and Delinquency Prevention Act of 1974, as amended in 1977, and require no match. Grants may be terminated at any point for failure to meet program process objectives or grant requirements.

(3) *Applicant Eligibility.* Applications are invited from public and private non-profit agencies, and organizations which are functionally independent of organizations and institutions they intend to impact. It is encumbent upon the applicant to provide sufficient information to determine functional independence.

d. *Application Requirements.* These requirements are to be used in lieu of Part IV—Program Narrative Instruction of the Federal Application Form 424. In order to be considered for funding, applications must include the following information. Applicants are requested to use the order outlined in this guideline:

(1) *Problem Definition and Data Needs.* (a) Provide statistical and qualitative documentation of the specific issues and problems to be addressed regarding the harmful effects on youth of the statutes, policies and practices that are to be targeted by the project. Describe the youth affected in terms of: number, age range, sex, race, ethnic and economic status. Discuss anticipated difficulties and problem areas, together with recommended approaches for solutions.

(b) Provide a description of the area in which the project will operate in terms of: geographic boundaries, crime and delinquency rates, race/ethnic population and adult and youth employment.

(c) Provide a list of existing youth advocacy projects within the target jurisdiction, include a brief description of each, and indicate how coordination with these projects will be achieved in order to complement existing programs and avoid any duplication of effort.

(d) Describe the formal and informal decision making structures which influence the systems targeted.

(e) Describe the social, economic and political relationships which will influence the targeted outcomes.

(f) Provide letters of written agreements which indicate the types of participation and resources available from the community sectors of political, business, industry, labor, church, and indigenous neighborhood groups and organizations.

(2) *Project Objectives.* Project goal statements should be related to intended impact, and objective statements should be related to activities necessary to produce desired impact. Both statements should be written in measurable terms and specifically related to: 1) Specific statutes, policies, and practices which adversely affect large numbers of youth; 2) The target agencies, organizations and local or state systems which will be affected; and, 3) The specific problems addressed in *Problem Definition and Data Needs.*

(3) *Program Methodology.* The applicant must provide a definitive methodology with explanation of approach and a detailed description of specific activities for implementing the project and achieving its objectives.

(a) Describe the advocacy strategies to be employed and the reason for believing they will influence processes which shape the policies, programs, and practices in question as required in Paragraph c(1)(d).

(b) Describe how the four elements required in Paragraph c(1)(c) are incorporated in the proposed project design.

(c) Clearly describe the administrative and fiscal organizational structures, and coordination mechanisms to be employed in implementation of the project, (including the role of other groups, agencies and systems in any phase of the project), and the information system which will be used to document change.

(4) *Workplan.* Prepare a detailed work schedule which outlines specific program objectives in relation to milestones, activities and timeframes for accomplishing the objectives. The workplan and budget should be prepared to allow for a three month start-up period.

(5) *Applicant Capability.* The applicant must:

(a) Demonstrate knowledge of and experience with juvenile justice and delinquency prevention issues, the system(s) in which change are to be sought, and the problems, strategies and advocacy approaches necessary to meaningful change in youth serving institutions;

(b) Have the demonstrated capability or experience to develop management and fiscal systems necessary for the administration of Federal funds;

(c) Demonstrate the ability to generate public confidence and support for the proposed objectives by inclusion of letters of support from community organizations and individuals;

(d) Provide a description of the implementing organization as required in Paragraph c(4), a copy of the governing by-laws a list of board members, organizational chart, a description of experience with similar programs completed or now underway; and,

(e) Provide resumes of key staff and profiles of board members.

(6) *Budget.* Prepare a budget of the total costs to be incurred in carrying out the proposed project over three years, with a detailed categorical itemization and narrative for the first two budget years. Include in the budget funds to support travel for four (4) staff persons (two of which must be youth) to attend four (4) technical assistance and training sessions for the first grant period (two years) for an average of three (3) days per trip. Budget up to 15% of total projected outlays to cover the costs of a management information system. No match will be required for these grants. Travel budgeted for coordination with other advocacy projects must be confined to not more than four (4) trips for two (2) persons over the two (2) year project period, two of which will be for attendance at OJJDP sponsored conferences for all OJJDP Advocacy Grantees.

e. *Criteria for Selection of Projects.* Applications will be rated and selected using the following criteria. Only those applications meeting criteria at the highest level will be considered for grant award. All other factors being equal cost effectiveness and geographic distribution will be used in making final selections.

(1) The extent to which the proposed project addresses the program targets of statutes, policies and practices and establishes that those selected for impact are harmful to large numbers of youth. (15 points)

(2) The extent to which the applicant demonstrates understanding of the problems associated with effecting change in the proposed program. (15 points)

(3) The extent to which the project design provides youth advocacy strategies and approaches which include youth, minorities, other itizen groups, and key leadership groups of the communities. (15 points)

(4) The extent to which the applicant provides a clear plan for taking specific actions reasonably designed to accomplish measurable project objectives. (15 points)

(5) The extent to which the applicant demonstrates capability to successfully carry out the project through use of available key personnel with essential skills and experience. (20 points)

(6) The extent to which the applicant demonstrates its ability to develop necessary management information system and fiscal management systems. (5 points)

(7) The extent to which the proposed activities are cost effective in relation to their potential for effecting changes in statutes, policies, and practices which adversely affect large numbers of youth.

(8) The extent to which the proposed strategy has the potential for modifying the targeted statutes, policies, priorities and practices. (10 points)

f. *Submission Requirements.*

(1) *Submission Procedures.* The Youth Advocacy initiative has been determined to be of national impact and awards will be made directly to the successful applicants. Applications must be submitted to the Office of Juvenile Justice and Delinquency Prevention in accordance with the form outlined in Appendix 2, Section 2, Paragraphs 4b and 5, Guide for Discretionary Grant Programs, M 4500.1G, dated September 30, 1978. Refer to Appendix 5, Part II and Part IV for instructions on how to prepare the budget, budget narrative and program narrative. Applicants must consult with the State Planning Agency of their State before making application to LEAA, and are encouraged to review the most recent Comprehensive State Plan produced by the State Planning Agency and to request a conference with the SPA to discuss the proposed project. The conference should also include regional and/or local planning unit representatives. In addition, applicants must submit applications to the relevant State Planning Agencies for review and comment concurrent with their submission to OJJDP, as provided by M 4500.1G; Appendix 2, Section 2. Prior to submission of applications to the Office of Juvenile Justice and Delinquency Prevention, applicants must also submit applications to appropriate A–95 Clearinghouses in accordance with A–95 requirements. Letters of verification indicating appropriate contacts with State Planning Agencies and A–95 Clearinghouses must be included in the applications. Addresses are included in Appendices 1 and 2.

(2) *Deadline for Submission of Applications.* One (1) original and two (2) copies of the application must be mailed or hand delivered to the Office of Juvenile Justice and Delinquency Prevention, LEAA, Room 442, 633 Indiana Avenue NW., Washington, D.C. 20531, by December 31, 1979. Applications sent by mail will be considered to be received on time if sent by registered or certified mail no later than December 31, 1979, as evidenced by the U.S. Postal Service postmark on the original receipt from the U.S. Postal Service.

g. *Evaluation Requirements.* The projects funded under the program will be evaluated by an independent evaluator selected by the Office of Juvenile Justice and Delinquency Prevention. In addition each applicant must indicate the capability of developing a management information system. The Management Information System (MIS) must be capable of providing data on:

(1) The system(s) covered by the projects;

(2) The types of activities/programs undertaken to reach specific project objectives;

(3) The immediate results produced by advocacy program intervention; and

(4) Types of interventions (programs/activities) undertaken under specific conditions for different systems;

The evaluator will assist the grantees in establishing an MIS System.

h. *Technical Assistance.* Technical Assistance will be provided in accordance with the standard procedures of the Office of Juvenile Justice and Delinquency Prevention.

i. *Definitions.*

(1) *Youth Advocacy*—is a method of positive intervention by individual advocates or by advocacy groups on behalf of large numbers of youth to assure that problems confronting youth are effectively solved or managed through existing youth serving entities in the public, private and/or community sectors of society. A major objective of youth advocacy activities is to penetrate the blockages and obstacles between youth and service delivery systems which occur within complex social organizations. A further objective is the accomplishment of institutional (agency) change which results in improved service delivery to youths and reallocation of available resources. The level of effort required of advocacy in the representation process (negotiation, arbitration, contesting) is to support the needs and rights as if they were the advocates' own.

(2) *Citizen Participation*—is active, continuous and meaningful involvement of youth, neighborhood residents and representatives of neighborhood organizations and city-wide institutions (minority, business, industry, labor, religious) in the planning, development and monitoring of programs affecting young people.

(3) *High Risk Communities*—are communities where youth live that are characterized by high rates of crime and delinquency, high infant mortality rates, high unemployment and under employment, sub-standard housing, physical deterioration and low incomes.

(4) *Education System*—includes elementary, junior high schools and senior high schools, both public and private; also includes variations of the above as part of public educational systems or private educational systems or institutions (e.g., vocational schools, special education programs, including educational programs in juvenile correctional facilities, and alternative education programs); also, includes the governing bodies of the educational system (state/local boards of education, other authorities).

(5) *Social Service System*—(Youth Serving Agencies) includes the state and/or local private and public departments/agencies which provide services to youth (e.g. social services, welfare, mental health, health, employment, recreation, and others). Also includes private youth service bureaus, other service referral networks and specific services or programs such as crisis intervention, counseling, alcohol/drug treatment, community-based prevention, treatment programs and others.

(6) *Juvenile Justice System*—refers to official structures, agencies and institutions with which juveniles may become involved as the result of allegations of delinquency, abuse, neglect, mental illness, drug addiction, non-delinquent misbehavior, or other legal grounds. These systems include, but are not limited to juvenile or family courts, administrative hearing boards, law enforcement agencies, etc.

(7) *Jurisdiction*—is any unit of general government such as a city, county, state, township, borough, parish, village, or combination of such units.

(8) *Delinquency*—is the behavior of a juvenile, in violation of a statute or ordiance in a jurisdiction, which would constitute a crime if committeed by an adult.

(9) *Dispostion*—is that procedure in the juvenile court process which results in the imposition of a sentence, (e.g., probation or commitment).

(10) *Program*—refers to the National Youth Advocacy Initiative to establish programs supported by OJJDP and the overall activities related to implementing the Advocacy Program.

(11) *Project*—refers to the specific set of advocacy activities at given site(s) designed to achieve the overall goal of improving services to youth and protection of the rights of youth.

(12) *Needs of Youth*—for the purposes of this Guideline is defined as family, education, employment, skills training, emotional support, health aids, medical care, physical education and recreation, legal advice and assistance in assuring recognition and enforcement of the rights of youth.

(13) *Youth*—are defined by each jurisdiction's definition as contained in the welfare and juvenile codes.

(14) *Legal Advocacy*—is an approach whereby test case litigation or representation used to advocate for the interests and protect the rights of a given group or class of youth as a means of achieving systems change for the entire class of youth.

(15) *Youth Participation*—is defined as "involving youth in responsible, challenging action, that meets genuine needs, with opportunity for planning and/or decision making affecting others, in an activity whose impact or consequences extend to others—i.e., outside or beyond the youth participants themselves." (Judge Mary Conway Kohler)

David D. West,

Acting Associate Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 79-31526 Filed 10-11-79; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal Advisory Council on Unemployment Insurance; Meeting

A meeting of the Federal Advisory Council on Unemployment Insurance will be held on November 8, 1979, from 9:00 a.m. to 5:00 p.m. and on November 9, from 8:30 a.m. to 12:30 p.m. The meeting will be held in Room S-4215A-C, Labor Department Building, which is located at 200 Constitution Avenue, N.W., Washington, D.C.

The tentative agenda for this meeting includes:

Welcome and Remarks by the Secretary. Swearing-In of New Council Member(s). Planning for a Heavily Increased Claims Workload. Administrative Plans. Legislative Plans.

An Update on UI Activities by the UI Administrator. The Current Fraud and Overpayment Program. Status of Bill to Repeal Pension Deductions from UI Benefits. Status of Other Current UI Legislation. Status of the Boren Committee Proposals to Cut UI Costs.

Consideration by the Council of the Boren Committee Proposals. (Priority for order of consideration of proposals will be determined by the Council members.)

Members of the public are invited to attend the proceedings. Written data, views, or arguments pertaining to the business before the Council must be received by the Council's Executive Secretary prior to the meeting date. Twenty duplicate copies are needed for distribution to the members and for inclusion in the meeting minutes.

Telephone inquiries and communications concerning this meeting should be directed to:

Morton Rosenbaum, Executive Secretary, Federal Advisory Council on Unemployment Insurance, Room 7000, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, Telephone No. 202/376-7034.

Signed in Washington, D.C., this 3rd day of October, 1979.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 79-31610 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-30-M

New Extended Benefit Period in the State of Michigan

This notice announces the beginning of a new Extended Benefit Period in the State of Michigan, effective on September 30, 1979.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State or the nation, to furnish up to 13 weeks of additional benefits to eligible individuals who have exhausted their rights to regular benefits under permanent State and Federal unemployment compensation laws. Part 615 of Title 20, Code of Federal Regulations, implements the statute (20 CFR Part 615).

In accordance with section 203(e) of the Act, the Michigan unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines, in accordance with 20 CFR 615.12(e), that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment under the State unemployment compensation law equalled or exceeded 5.0 percent. 20 CFR 615.12(c). The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State of Michigan has determined that, for the period consisting of the week ending on September 15, 1979, and the immediately preceding 12 weeks, the rate of insured unemployment in the State equalled or exceeded 5.0 percent.

Therefore, an Extended Benefit Period commenced in that State with the week beginning on September 30, 1979.

Information for Claimants

The duration of Extended Benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to Extended Benefits in the

State of Michigan, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest Branch Office of the Michigan Employment Security Commission in their locality.

Signed at Washington, D.C., on October 4, 1979.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 79-31611 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-79-139-C]

Masteller Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Masteller Coal Company, Route 4, Keyser, West Virginia 26726 has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its J.T. 1 Mine located in Garrett County, Maryland. 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 shuttle cars in the petitioner's mine.

2. Due to a low roof and pavement rolls, the petitioner has lowered canopies on its shuttle cars to their lowest position (42 inches above pavement) in order to clear the roof. To improve visibility and maneuverability under these confined conditions, equipment operators frequently place their heads or a portion of their bodies beyond the protection of the cabs, thereby exposing themselves to injury.

3. Pavement rolls have resulted in canopies wedging against the roof and/or catching roof bolts. Such instances could easily cause injury to the equipment operator.

4. For these reasons, the petitioner believes that the use of cabs or canopies on its shuttle cars would result in a diminution of safety to its miners.

Request for Comments

Persons interested in this petitition may furnish written comments on or before November 13, 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: October 2, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-31239 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-140-C]

The North American Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

The North American Coal Corporation, Powhatan Point, Ohio 43942 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations) to its Powhatan No. 3 Mine located in Belmont County, Ohio. 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. Due to numerous roof falls in older sections of the petitioner's mine, specified areas of designated return airways have become impassable.

2. These return airways are not part of the mine's escapeway system; and the roof falls do not affect the efficiency of the mine's ventilation system.

3. As an alternative to weekly inspection of the return airways for hazardous conditions, the petitioner proposes to establish and maintain air monitoring stations according to procedures outlined in the petition. The locations of these stations are specified in the petition.

4. The petitioner believes that its alternative will achieve no less protection for its miners than that provided by the standard.

Requests for Comments

Persons interested in this petition may furnish written comments on or before November 13, 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: October 3, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health

[FR Doc. 79-31240 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

[TA-W-5719, TA-W-5760]

Amstar Corp., et al.; 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 investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on July 10, 1979 in response to a worker petition received on July 2, 1979 which was filed on behalf of workers and former workers engaged in employment related to the production and sale of sugar for the American Sugar Division of Amstar Corporation, headquartered in New York, N.Y.

With respect to the operations of the Baltimore, MD and Chalmette, LA refineries and related facilities of the American Sugar Division of Amstar 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 in the course of the investigation revealed that the principal market areas served by the Baltimore, MD and Chalmette, LA refineries of the American Sugar Division of Amstar Corporation are not areas which are significantly affected by competition from imported refined sugar.

With respect to the operations of the Boston, MA; Brooklyn, NY; and Philadelphia, PA refineries and related facilities of the American Sugar Division of Amstar Corporation, all of the criteria have been met.

Although U.S. imports of refined cane sugar are relatively minor when compared to total domestic production, they are not insignificant when compared to the region of the United States in which they are marketed. Imports of refined sugar from Canada accounted for more than 98 percent of total U.S. imports of refined sugar in 1978. Nearly all imports of refined sugar from Canada are marketed in the northeastern and northcentral areas of the United States, principally in the

Eastern Great Lakes region. Imports of refined sugar reached a record high level in 1977, declined in quantity in 1978, and increased during January-June 1979 compared to January-June 1978.

Of Amstar Corporation's five cane sugar refineries, three (Boston, Brooklyn, and Philadelphia) serve market areas which receive the bulk of the competition from imported refined sugar from Canada. These three refineries experienced declines in sales, production and employment in 1978 and the first six months of 1979.

A survey conducted by the Department revealed that surveyed customers who decreased purchases from the American Sugar Division of Amstar Corporation in 1978 and the first six months of 1979 increased purchases of imported refined sugar during the same period. These surveyed customers were located in the northeastern and northcentral regions of the United States.

A recent investigation by the U.S. International Trade Commission was concerned with imports of refined sugar from Canada at less than fair value. In May 1979 the Commission determined that there is a reasonable indiction of injury or the likelihood of injury to the U.S. sugar industry attributable to the imports. It was determined that imports of refined sugar from Canada were concentrated in the Northeastern and Eastern Great Lakes areas of the United States, that these imports were significantly higher in 1977 and 1978 compared to previous years, and that prices obtained by sugar refiners were lower in the areas of heavy Canadian import penetration than in other areas.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with refined cane sugar produced, sold and distributed by the American Sugar Division of Amstar Corporation at the Boston, MA; Brooklyn, NY; and Philadelphia, PA cane sugar refineries and the related facilities listed in the following paragraph 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 Boston, Massachusetts; Brooklyn, New York; and Philadelphia, Pennsylvania cane sugar refineries and related facilities of the American Sugar Division of Amstar Corporation who become totally or partially separated from employment on or after June 18, 1978 are eligible to apply for adjustment assistance under Title II Chapter 2 of the Trade Act of 1974.

The related facilities include a distribution and blending plant in Chicago, Illinois; research and development laboratories in Brooklyn, New York; printing, package and food service plants in Sprague, Connecticut; Versailles, Connecticut; Pitman, New Jersey; and Charleston, South Carolina; general offices of the American Sugar Division in New York, New York; and regional sales offices in Boston, Massachusetts; Des Plaines, Illinois; Livonia, Michigan; and Philadelphia, Pennsylvania.

Signed at Washington, D.C. this 3rd day of October 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-31615 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5840]

Andray Products, Inc., East Orange, 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 and assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 9, 1979 in response to a worker petition received on August 6, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing polyethylene and polypropylene woven swimming pool covers for Andray Products, Inc., East Orange, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department of Labor conducted a survey of some of the customers purchasing polyethylene and polypropylene woven swimming pool covers from Andray Products, Inc. None of the responding customers purchased any imported swimming pool covers in 1978, or the January through June 1979 period.

Andray Products, Incorporated purchased imported polyethylene and polypropylene woven swimming pool covers during April of 1979. However, these imports were a one time purchase and represented an insignificant percentage of Andray's sales for the first six months of 1979.

Conclusion

After careful review, I determine that all workers of Andray Products, Incorporated, East Orange, 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 3rd day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-31616 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5886]

Bradley Coats, Inc., New Haven, Conn.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 23, 1979 in response to a worker petition received on August 21, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's coats at Bradley Coats, Incorporated, New Haven, Connecticut. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that declines in production and employment at Bradley Coats can be attributed to seasonal fluctuations.

Company production increased in 1978 compared to 1977 and increased in the first eight months of 1979 compared to the like period of 1978. Company employment increased from 1977 to 1978 and in the first eight months of 1979 compared to the first eight months of 1978. Company employment increased in each quarter from the first quarter of 1978 through the second quarter of 1979 when compared to the like periods of the previous year.

Declines in production and employment at Bradley Coats in the first and last quarters of 1978 and the first quarter of 1979, when compared to the previous quarter, reflect the seasonal nature of the women's coat industry.

Conclusion

After careful review, I determine that all workers of Bradley Coats, Incorporated, New Haven, Connecticut 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 5th day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-31618 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6036]

Cochise Mining Corp., Safford, Ariz.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 19, 1979 in response to a worker petition received on September 17, 1979, which was filed on behalf of workers and former workers producing copper concentrate at Cochise Mining Corporation, Safford, Arizona.

The petitioning group of workers was certified eligible to apply for adjustment assistance benefits under an existing determination which was issued on December 13, 1978 for workers of Producers Minerals Corporation (TA-W-4053) who were totally or partially separated from employment on or after August 2, 1977. Cochise Mining Corporation is the successor firm to Producers Minerals Corporation. Producers Minerals discontinued mining at the Safford, Arizona mine on July 31, 1978. Cochise Mining commenced operations at the same site in September 1978 and assumed all the responsibilities of the previous mining company. Since workers of Cochise Mining Corporation newly separated, totally or partially, from employment on or after August 2, 1977 (impact date) and before December 13, 1980 (expiration date) are covered by the certification of workers of Producers Minerals Corporation, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 5th day of October 1979.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-31619 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5436]

Cooper-Wiss, Newark, N.J.; Revised Determination 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 Certification of Eligibility to Apply for Worker Adjustment Assistance on August 22, 1979, applicable to all workers engaged in the production of scissors and shears at Cooper-Wiss, Newark, New Jersey. The Notice of Certification was published in the **Federal Register** on August 31, 1979 (44 FR 51363).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certification. The review of the case revealed that 12 layoffs occurred between May 29 and July 6, 1979. These layoffs were not covered by the impact date of July 27, 1979.

The intent of the certification is to cover all workers who were affected by the decline in production of scissors and shears at Cooper-Wiss, Newark, New Jersey, related to import competition. The certification, therefore, is revised providing a new impact date of May 18, 1979.

The revised certification applicable to TA-W-5436 is hereby issued as follows:

All workers of Cooper-Wiss, Newark, New Jersey engaged in employment related to the production of scissors and shears at the Newark, New Jersey facility who became totally or partially separated from employment on or after May 18, 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 5th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-31620 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5842]

Fay Sportswear, Burlington, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 9, 1979 in response to a worker petition received on August 6, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing children's dresses at Fay Sportswear, Burlington, New Jersey. The investigation revealed that the plant produces children's dresses and women's skirts and slacks. 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.

Sales at Fay Sportswear increased in the second half of 1978 compared to the same period of 1977 and increased in the first seven months of 1979 compared to the same period of 1978. Production is equal to sales.

The average number of production workers at Fay Sportswear remained constant in the second half of 1978 compared to the same period of 1977. Employment then increased in the first seven months of 1979 compared to the same period of 1978.

Conclusion

After careful review, I determine that all workers of Fay Sportswear, Burlington, 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 3rd day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-31621 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5823]

Grayslake Gelatin Co., Grayslake, Ill.; 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 group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 7, 1979 in response to a worker petition received on August 3, 1979 which was filed on behalf of workers and former workers producing edible gelatin at Grayslake Gelatin Company, Grayslake, Illinois. It is concluded that all of the requirements have been met.

U.S. imports of edible and photographic gelatin increased in 1977 compared to 1976, decreased in 1978 compared to 1977 and decreased in the first half of 1979 compared to the same period in 1978.

Edible gelatin has an indefinite shelf life and can be held in inventory for long periods of time. Therefore, increased imports of gelatin in 1977 are still affecting the market in 1979. Imports of gelatin almost doubled from 1976 to 1977, as the result of the popularity of liquid protein diets and protein supplements, which contain gelatin.

In 1977, in anticipation of growing demand, imports of gelatin substantially accelerated over the rising trend of previous years. At the same time, the FTC and FDA revealed the dangers of improper use of protein supplements and effectively reduced the popularity of the liquid protein diet. Edible gelatin is a principal component of protein supplements. Domestic demand for protein supplements fell over 95 percent. As a result, large inventories of imported and domestic edible gelatin caused downward pressure on prices, making it difficult for domestic manufacturers to profitably market gelatin.

The Department conducted a survey of some the customers of Grayslake Gelatin Company. The survey revealed that some of the customers decreased purchased from the subject firm and increased purchased of imported gelatin from 1977 to 1978 and in the first six months of 1979 compared to the first six of 1978. Customers which decreased purchases from the subject firm and increased import purchases in the first six months of 1979 compared to the first six months of 1978 constituted a significant percentage of the subject firm's decline in sales in that period. Subsequently, the company closed in July 1979 for an indefinite 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 the edible gelatin produced at Grayslake Gelatin Company, Grayslake, Illinois 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 Grayslake Gelatin Company, Grayslake, Illinois who became totally or partially separated from employment on or after July 27, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 31622 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5861]

Holly Sugar Corp., Brawley, 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 August 14, 1979 in response to a worker petition received on August 10, 1979 which was filed by the United Sugar Workers Council of California Distillery, Rectifying, Wine and Allied International Union of America on behalf of workers and former workers producing refined sugar at Holly Sugar Corporation, Brawley, California.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of production workers increased in January-June 1979 compared to the same period in 1978. Average quarterly employment increased in every quarter when compared with the same quarter of the previous year from the fourth quarter of 1978 through the second quarter of 1979.

Conclusion

After careful review, I determine that all workers of Holly Sugar Corporation, Brawley, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Singed at Washington, D.C. this 3rd day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-31623 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to

begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 22, 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 22, 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 4th day of October 1979.

Harlod 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
Barad & Company (ILGWU)	Thayer, Mo	10/1/79	9/20/79	TA-W-6,148	Women's lingerie.
Donaldson Manufacturing Co., Inc. (workers)	Donaldson, Pa	9/26/79	9/18/79	TA-W-6,149	Women's dresses and sportswear.
Donaldson Manufacturing Co., #2 (workers)	Combola, Pa	9/26/79	9/18/79	TA-W-6,150	Women's dresses and sportswear.
Emerson Electric Company (workers)	Kenneth, Mo	9/26/79	9/18/79	TA-W-6,151	Numerous types of electric motors.
Libbey Owens Ford Company, Inc. (GBBA)	Charleston, W. Va	9/21/79	9/11/79	TA-W-6,152	Sheet glass, window glass.
Merit Plastics, Inc. (workers)	East Canton, Ohio	9/24/79	9/15/79	TA-W-6,153	Plastic auto parts.
Peach Creek Processing (workers)	Logan, W. Va	10/1/79	9/25/79	TA-W-6,154	Metallurgical coal.
Quality Mills, Inc., York Plant (company)	Mount Airy, N.C	10/1/79	9/25/79	TA-W-6,155	Knitters, maintenance personnel, office personnel, and administration.
Robertson & Associates, Inc., Fabius Mine (workers).	Fabius, Ala	10/1/79	9/24/79	TA-W-6,156	Steam coal.
Stafford Printers, Inc. (Machine Printers & Engravers Association).	Stafford Springs, Conn	10/1/79	9/24/79	TA-W-6,157	Print and finish synthetic fabrics for women's wear.
Wayne Car Releasing Services, Inc. (Teamsters).	Wayne, Mich	9/28/79	9/22/79	TA-W-6,158	Prepare cars for shipment.

[FR Doc. 79-31617 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5824]

Juma Fashions, Inc., 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 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 7, 1979 in response to a worker petition received on August 6, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's accessories. The investigation revealed that the plant produces primarily women's scarves and blouses (halter tops). It is concluded that all of the requirements have been met.

Imports of women's and girls' blouses and scarves increased absolutely and relative to domestic production in 1978 compared to 1977

Several customers surveyed by the U.S. Department of Commerce reduced purchases from Juma Fashions, Inc. in 1978 while increasing imports during the same period of time.

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 accessories including hats, head coverings, scarves, shawls and blouses (halter tops) produced at Juma Fashions, Incorporated, New York, 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 Juma Fashions, Incorporated, New York, New York who became totally or partially separated from employment on or after July 23, 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 3d day of October 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-31624 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5959]

Agenda Limited, Inc.; Lockhart, Tex.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 5, 1979 in response to a worker petition received on August 27, 1979 which was filed on behalf of workers and former workers producing heat limiter fuses, automotive radiator thermostats, and tire repair materials at Agenda limited, Inc., Lockhart, Texas. It is concluded that all of the requirements have been met.

The major product produced and sold by Agenda Limited, Inc. during the last three years of the firm's operation was

heat limiter fuses. Agenda Limited, Inc. closed in August 1979.

U.S. imports of electric fuses (including heat limiter fuses) increased in quantity in calendar year 1978 from calendar year 1977.

A survey conducted by the U.S. Department of Commerce revealed that customers surveyed who reduced purchases from Agenda Limited, Inc. in fiscal years ending May 31, 1978 and May 31, 1979 increased purchases of imported heat limiter fuses during the same period. On July 2, 1979 the Department of Commerce issued a certification of eligibility to apply for firm adjustment assistance under the Trade Act of 1974 applicable to Agenda Limited, Inc., Lockhart, Texas.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with heat limiter fuses produced at Agenda Limited, Inc., Lockhart, Texas 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 Agenda Limited, Inc., Lockhart, Texas who become totally or partially separated from employment on or after August 3, 1978 are eligibile to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 5th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-31612 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5905]

Kerney Marine & Industrial Services, Inc., Linden, 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 August 27, 1979, in response to a worker petition received on August 21, 1979, which was filed by the Industrial Union of Marine & Shipbuilding Workers of America on behalf of workers and former workers of Kerney Marine & Industrial Service, Linden, New Jersey, engaged in conversion, repair, overhaul, and maintenance of marine vessels. The investigation revealed that the legal title of the firm is Kerney Marine & Industrial Services, Incorporated.

Kerney Marine & Industrial Services, Incorporated is engaged in providing the service of repairing ships.

Thus, workers of Kerney Marine & Industrial Services, Incorporated do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Kerney Marine & Industrial Services, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Kerney Marine & Industrial Services, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in repairing ships at Kerney Marine & Industrial Services, Incorporated, are employed by that firm. All personnel actions and payroll transactions are controlled by Kerney Marine & Industrial Services, Incorporated. All employee benefits are provided and maintained by Kerney Marine & Industrial Services, Incorporated. Workers are not, at any time, under employment or supervision by customers of Kerney Marine & Industrial Services, Incorporated. Thus, Kerney Marine & Industrial Services, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Kerney Marine & Industrial Services, Incorporated, Linden, 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 5th day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-31625 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5890]

Morgy Morganstern Corp., New York, 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 August 23, 1979 in response to a worker petition received on August 20, 1979 which was filed on behalf of workers and former workers who bought and sold vinyl plastics at Morgy Morganstern Corporation, New York, New York.

Morgy Morganstern Corporation is engaged in providing the service of purchasing, examining, grading, measuring and reselling vinyl plastic material.

Thus, workers of Morgy Morganstern Corporation do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Morgy Morganstern Corporation by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Morgy Morganstern Corporation and its suppliers and customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in purchasing, examining, grading, measuring and reselling vinyl plastic material at Morgy Morganstern Corporation are employed by that firm. All personnel actions and payroll transactions are controlled by Morgy Morganstern Corporation. All employee benefits are provided and maintained by Morgy Morganstern. Workers are not, at any time, under employment or supervision by customers or suppliers of Morgy Morganstern Corporation. Thus, Morgy Morganstern Corporation, and not any of its customers, or suppliers must be considered to be the "workers' firm."

Conclusion

After careful review, I determined that all workers of Morgy Morganstern 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 5th day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-31628 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5893]

Rennie Manufacturing Co., Inc. d.b.a. Jaral, Boston, Mass.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 23, 1979 in response to a worker petition received on August 21, 1979 which was filed on behalf of workers and former workers producing curtains and draperies at Rennie Manufacturing Company, Incorporated, DBA Jaral, Boston, Massachusetts. The investigation revealed that the plant produces only curtains. 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.

Over the past five years, U.S. imports of curtains and draperies have been less than one-half of one percent of U.S. domestic production. The import to domestic production ratio was .04 percent in 1978.

The low level of U.S. imports of curtains and draperies may be attributed to the fact that a minimal amount of labor cost is entailed in the curtain and drapery production process. When this low labor component is viewed in relationship to transportation costs, off-shore production of curtains does not maintain an advantage over domestic production.

Rennie Manufacturing Company is a division of Arley Merchandise Corporation. Company-wide sales and production of curtains by the Arley Merchandise Corporation increased in 1978 compared to 1977. Quarterly data reveal that the company's sales also increased in the first quarter of 1979 compared to the same period of 1978.

Conclusion

After careful review, I determine that all workers of the Boston, Massachusetts plant of Rennie Manufacturing Company, Incorporated, DBA Jaral, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 3rd day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-31627 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5895]

Stride Rite Manufacturing Corp., Auburn, Maine; 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 August 23, 1979 in response to a worker petition received on August 20, 1979 which was filed by the United Food and Commercial Workers International Union on behalf of workers and former workers producing footwear at the Auburn, Maine plant of the Stride Rite Manufacturing Corporation. The investigation revealed that the plant produces children's shoes and sandals. It is concluded that all of the requirements have been met.

U.S. imports of children's nonrubber footwear, except athletic, increased absolutely and relative to domestic production during the first half of 1979 compared to the first half of 1978. The ratio of imports to domestic production increased from 71.9 percent in the first half of 1978 to 97.2 percent in the first half of 1979.

A Department survey of customers who bought children's shoes and sandals from Stride Rite Manufacturing Corportation revealed Rite and increased purchases from foreign sources from 1977 to 1978 and during 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 children's shoes and sandals produced at the Auburn, Maine plant of the Stride Rite Manufacturing Corporation 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 Auburn, Maine plant of the Stride Rite Manufacturing Corporation who became totally or partially separated from employment on or after January 6, 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 5th day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-31628 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

TA-W-5809-5812, 5814, 5816, 5818, 6145

Tenna Inc., Caguas, P.R.; 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 August 3, 1979 and on October 2, 1979 in response to a worker petition received on August 1, 1979 which was filed on behalf of workers and former workers producing signals for antennas at AM/FM/CB Splitter, Caguas, Puerto Rico (TA-W-5809), producing cables for antennas at Cables, Caguas, Puerto Rico (TA-W-5810), producing nickel-plated rods for CB antennas at Caguas Electro

Plating, Caguas, Puerto Rico (TA–W–5811), producing CB antennas at C.B. Electric Antenna, Caguas, Puerto Rico (TA–W–5812), producing motors for antennas at Electro, Caguas, Puerto Rico (TA–W–5814), producing antenna pylons at Star, Caguas, Puerto Rico (TA–W–5816), and producing AM/FM motorized antennas at Tennamatic, Caguas, Puerto Rico (TA–W–5818). The petition was also filed on behalf of all salaried and indirect production workers who provide administrative and other support services to workers engaged in the production of AM/FM, CB, and AM/FM/CB electric antennas, but who are not assigned directly to any of the above six departments (TA–W–6145).

The investigations revealed: that AM/FM Splitter, Cables, Caguas Electro Plating, Electro, and Star are separate departments within the Antenna Division of Tenna, Incorporated; that workers at AM/FM/CB Splitter produce signal splitters for AM/FM/CB electric antennas; that workers at Caguas Electro Plating produce nickel-plated rods for both electric and manual antennas; and that workers at Star produce antenna masts for both electric and manual antennas. It was further established that C.B. Electric Antenna and Tennamatic constitute a single department at Tenna, Incorporated; workers in this department produce AM/FM, CB, and AM/FM/CB electric antennas.

It is concluded that all of the requirements have been met for workers producing motors for antennas in the Electro Department of Tenna, Incorporated.

U.S. imports of DC fractional horsepower electric motors (1/40 to 1/10 horsepower) increased absolutely in the first two quarters of 1979 compared to the first two quarters of 1978.

The Tenna Corporation is currently in the process of transferring all production of motors for electric antennas from Tenna, Incorporated in Puerto Rico to Tenna de Reynosa in Mexico. This process began in late—May 1979, when the company started to ship equipment to Mexico. In early—October 1979, the Tenna Corporation will simultaneously close the Electro Department at Tenna, Incorporated and begin producton of electric antenna motors at Tenna de Reynosa. Subsequently, all motors used in the production of electric antennas will be imported from Mexico and shipped to the Tenna Corporation's new antenna assembly facility in Alabama.

In the following determinations, without regard to whether any of the other criteria have been met for salaried and indirect production workers of Tenna, Incorporated, and for workers in the AM/FM/CB Splitter, Cables, Caguas Electro Plating, Star, and C.B. Electric Antenna/Tennamatic Departments of Tenna, Incorporated, 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.

A Department survey indicated that none of the Tenna Corporation's major customers imported AM/FM, CB, or AM/FM/CB electric antennas during the January 1977–July 1979 period. Collectively these customers accounted virtually all of the total decline in the Tenna Corporation's sales of AM/FM, CB, and AM/FM/CB electric antennas from 1977 to 1978 and in the period January–July 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 DC fractional horsepower electric motors produced at the Electo Department of Tenna, Incorpoated, Caguas, Puerto Rico, contributed importantly to the decline in sales or production and to the total or partial separation of workers in the Electro Department of Tenna, Incorporated. In accordance with the provisions of the Act, I make the following certification:

All workers in the Electro Department of Tenna, Incorporated, Caguas, Puerto Rico, who became totally or partially separated from employment on or after July 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

After careful review, I further determine that all workers in the AM/FM/CB Splitter, Cables, Caguas, Electro Plating, Star, and C.B. Electric Antenna/Tennamatic Departments of Tenna, Incorporated, Caguas, Puerto Rico, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974; and

That all salaried and indirect production workers at Tenna, Incorporated, Caguas, Puerto Rico, who provide administrative and other support services to workers engaged in the production of AM/FM, CB, and AM/FM/CB electric antennas, but who are not assigned directly to any of the above six departments, are also denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 5th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-31629 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6012]

Triangle Motor Sales, Inc., North Berwick, Maine; 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 September 11, 1979, in response to a worker petition received on September 5, 1979, which was filed on behalf of workers and former workers of Triangle Motor Sales, Incorporated, North Berwick, Maine, a car dealership.

Triangle Motor Sales, Incorporated is engaged in providing the service of selling, servicing, and repairing used cars.

Thus, workers of Triangle Motor Sales, Incorporated do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Triangle Motor Sales, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Triangle Motor Sales, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in selling, servicing, and repairing used cars at Triangle Motor Sales, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by Triangle Motor Sales, Incorporated. All employee benefits are provided and maintained by Triangle

Motor Sales, Incorporated. Workers are not, at any time, under employment or supervision by customers of Triangle Motor Sales, Incorporated. Thus, Triangle Motor Sales, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Triangle Motor Sales, Incorporated, North Berwick, Maine 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 5th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-31630 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5839]

The American Air Filter Co., Inc.; Shelbyville, Ky.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 9, 1979 in response to a worker petition received on August 6, 1979 which was filed by the United Automobile, Aerospace and Agricultural Implement Workers' Union on behalf of workers and former workers producing hepa air filters at the Shelbyville, Kentucky plant of the American Air Filter Co., Inc. The investigation revealed that the plant also produced medium efficiency extended surface air filters. 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 Shelbyville, Kentucky plant permanently closed in June 1979. All production activities performed at the Shelbyville plant were transferred to another company owned facility, located in Columbia, Missouri, which opened in the first quarter of 1979. The transfer was made for reasons relating to efficiency rather than to lost business. The Columbia plant is a newer facility, which is more cost effective and has a higher capacity than the Shelbyville plant.

Total domestic sales of high and medium efficiency extended surface air filters (from Shelbyville) by the American Air Filter Company increased in 1978 compared to 1977. Average employment of production workers at Shelbyville increased in 1978 compared to 1977.

The transfer of production from Shelbyville to Columbia occurred in the first half of 1979. During the last three years, the Shelbyville and Columbia plants have been the only domestic facilities of American Air Filter to produce high and medium efficiency extended surface air filters.

Total domestic sales of high and medium efficiency extended surface air filters (from Shelbyville and Columbia) by the American Air Filter Company increased in the first half of 1979 compared to the same period in 1978. Average company employment of workers producing air filters at Columbia and Shelbyville increased in the first half of 1979 compared to the same period in 1978.

The petition alleges that some production was transferred from Shelbyville, Kentucky to company plants in Singapore and Holland. The investigation revealed that the Holland plant was opened in 1972 and that the Singapore plant was opened in 1976. These plants produce air filters solely for the overseas market. Neither plant exports its production to the United States.

Conclusion

After careful review, I determine that all workers of the Shelbyville, Kentucky plant of the American Air Filter Co., Inc. 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 5th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-31613 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 22, 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 22, 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 9th day of October 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
AMM Industries, Inc. (ILGWU)	Harrison, N.J	10/2/79	9/28/79	TA-W-6,159	Ladies' sportswear and dresses.
Conaway Winter, Inc. (U.F.C.W.—Footwear Division.	Willow Springs, Mo	10/2/79	9/27/79	TA-W-6,160	Infants shoes.
Emerson Electric Co., Emerson Motor Division, Paragould (workers).	Paragould, Ark	10/1/79	9/25/79	TA-W-6,161	Electric motors.
Jersey Miniere Zinc Company (USWA)	Gordonsville, Tenn	10/2/79	9/28/79	TA-W-6,162	Zinc ore and concentrate.
Jo-el Manufacturing, Inc. (workers)	Brooklyn, N.Y	10/2/79	9/17/79	TA-W-6,163	Contractor of junior dresses and skirts.
Mar Mac Manufacturers, Inc. (workers)	Baltimore, Md	10/2/79	9/27/79	TA-W-6,164	Ladies' and men's slacks and shorts.
Meco Knitting Mills (workers)	Brooklyn, N.Y	10/2/79	9/20/79	TA-W-6,165	Contractor of ladies' and men's sweaters.
Rainsheddar (Amalgamated Ladies' Garment Cutters Union, ILGWU).	Brooklyn, N.Y	10/2/79	9/26/79	TA-W-6,166	Ladies' raincoats and coats.
RCA Consumer Electronics (I.B.E.W.)	Bloomington, Ind	10/2/79	9/25/79	TA-W-6,167	Color television sets.
The Anderson Company of Indiana (workers)	Gary, Ind	10/2/79	9/27/79	TA-W-6,168	Automobile windshield wipers.
Walworth Company (USWA)	Kewanee, Ill	9/28/79	9/1/79	TA-W-6,169	Iron valves.

[FR Doc. 79-31614 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

Steel Tripartite Committee; Working Group on Labor and Community Adjustment Assistance; Meeting

The Steel Tripartite Committee was established under the Federal Advisory Committee Act, 5 U.S.C. App (1976) to advise the Secretary of Labor and the Secretary of Commerce on international and domestic issues affecting the U.S. steel industry, labor and the public.

Notice is hereby given that the Steel Tripartite Committee's Working Group on Labor and Community Adjustment Assistance will meet at 10:00 A.M. on November 1, 1979, in room 6802 Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230.

Items to be discussed are the current status of labor and community adjustment assistance programs and the future work of the Working Group on Labor and Community Adjustment Assistance. The public is invited to attend. A limited number of seats will be available to the public on a first-come basis.

For additional information contact:

Mr. David L. Mallino, Executive Secretary, Steel Tripartite Committee, Bureau of International Labor Affairs, U.S. Department of Labor, Washington, D.C. 20210, telephone (202) 523-7481; or Mr. A. M. Brueckmann, Director, Iron and Steel Division, Office of Basic Industries and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-4412.

Official records of the meeting will be available for public inspection at N 5651, U.S. Department of Labor, Washington, D.C. 20210.

Signed at Washington, D.C. this 10th day of October, 1979.

Herbert N. Blackman,

Deputy Under Secretary for International Affairs (Acting), U.S. Department of Labor.

[FR Doc. 79-31609 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

Steel Tripartite Committee; Working Group on Technological Research and Development; Meeting

The Steel Tripartite Committee was established under the Federal Advisory Committee Act, 5 U.S.C. App (1976) to advise the Secretary of Labor and the Secretary of Commerce on international and domestic issues affecting the U.S. steel industry, labor and the public.

Notice is hereby given that the Steel Tripartite Committee's Working Group on Technological Research and Development will meet at 2:00 P.M. on November 8, 1979, in the Secretary's Conference room 4830, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230.

Items to be discussed are the current status of technological research and development in the U.S. steel industry, and the future work of the Working Group. The public is invited to attend. A limited number of seats will be available to the public on a first-come basis.

For additional information contact:

Mr. David L. Mallino, Executive Secretary, Steel Tripartite Committee, Bureau of International Labor Affairs, U.S. Department of Labor, Washington, D.C. 20210, telephone (202) 523-7481; or Mr. A. M. Brueckmann, Director, Iron and Steel Division, Office of Basic Industries and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-4412.

Official records of the meeting will be available for public inspection at N 5651, U.S. Department of Labor, Washington, D.C. 20210.

Signed at Washington, D.C. this 10th Day of October 1979.

Herbert N. Blackman,

Deputy Under Secretary for International Affairs (acting) U.S. Department of Labor.

[FR Doc. 79-31608 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-28-M

Office of Pension and Welfare Benefit Programs

[Application No. D-1215]

Proposed Exemption for Certain Transactions Involving the C. Hugh Bishop & Associates, Inc., Profit Sharing Plan

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of unimproved real property from the C. Hugh Bishop & Associates, Inc. Profit Sharing Plan (the Plan) to C. Hugh Bishop, a party in interest. The proposed exemption, if granted, would affect C. Hugh Bishop and beneficiaries of the Plan. Since Mr. Bishop is the sole stockholder and employee of C. Hugh Bishop & Associates, Inc. and the only participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(c)(1). However, there is jurisdiction under Title II of the Act under section 4975 of the Code.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 9, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–1215. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Horace C. Green, of the Department of Labor, telephone (202) 523–8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the trustee of the Plan, pursuant to section 4975(c)(2) of the Code, and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. The application was filed with the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. In September of 1975, the Plan purchased two parcels of unimproved real property (the Property) with a combined size of 5.97 acres, located on Highway 105, approximately 3 miles east of Monument, Colorado, in El Paso County, from an unrelated party for $11,539.15, subject to a mortgage of $9,200.00.

2. The Property has been and continues to be, a non-income producing asset of the Plan. As of June 1, 1979, the Plan's total expense for the Property (interest, taxes, etc.) was $2,303.04.

3. The Property has been offered for sale to several individuals and also to local realtors, without success. Thus, the Plan proposes to sell the Property to Mr. Bishop for cash which, at the date of sale, will be the greater of either the then fair market value or the original purchase price plus all expenses and costs since acquisition. An independent appraisal, dated July 20, 1978, valued the Property at $12,000.

4. The terms of the sale will be as follows: the Plan will receive cash for its equity; Mr. Bishop will assume the loan; and the holder of the note will execute a release absolving the Plan from further liability. No sale commissions will be paid in connection with the proposed sale.

5. In summary, the applicant represents that the transaction meets the statutory criteria of section 4975(c)(2) of the Code because (1) it is a one time transaction for cash, (2) the amount to be paid for the Property would be the greater of the then fair market value or the total cost to date on date of sale, (3) all attempts to sell the Property to unrelated parties have been futile, and (4) the Plan will be able to dispose of an non-income producing asset.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26. If the exemption is granted, the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale by the Plan of two parcels of unimproved real property consisting of 5.97 acres to C. Hugh Bishop for the fair market value at the date of sale or the original purchase price plus all expenses and costs since acquisition, whichever is greater.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 3d day of October 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79–31155 Filed 10–11–79; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 79–58; Exemption Application No. D–1002]

Exemption From the Prohibitions for Certain Transactions Involving the St. Louis Union Trust Co.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the purchase by the St. Louis Union Trust Company (Trustee) of certain securities for its own account from the Collective Employees Trust Fund F (F Fund) of which it serves as trustee.

FOR FURTHER INFORMATION CONTACT: Frederic G. Burke of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8515. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 1, 1979, notice was published in the **Federal Register** (44 FR 31752) of the pendency before the Department of labor (the Department) of a proposed exemption from the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code), by reason of section 4975(c)(1) (A) through (E) of the Code. The exemption was requested in an application filed by the Trustee pursuant to section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application on file with the Department for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to the exemption. No public comments and no requests for a hearing were received by the Department with respect to the exemption as proposed.

The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this exemption is granted solely by the Department.

General Information

The attention of interested persons is directed to the following:

(1) the fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan, and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Further, the fact that a transaction is subject to an administrative exemption, statutory exemption, or transactional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1, and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plans and of their participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plans.

Therefore, the prohibitions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the purchase by the St. Louis Union Trust Company of GSC Leasing Corporation notes from Fund F, a collective employee benefit fund which it serves as Trustee, provided that the purchase price was not less than fair market value at the time of purchase.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this the 3rd day of October 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-31156 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-59; Exemption Application No. D-1291]

Exemption From the Prohibitions for Certain Transactions Involving Atlantic Richfield Co. Retirement Plans

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts the contribution of property and ground lease by the Atlantic Richfield Company (the Employer) to a commingled trust fund (the Trust) in which separate qualified pension plans (the Plans) of the Employer and its subsidiaries maintain participating accounts.

FOR FURTHER INFORMATION CONTACT: Frederic G. Burke of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8515. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 3, 1979, notice was published in the **Federal Register** (44 FR 39049) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at

the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No requests for a hearing were received by the Department. However, two public comments were received.

The first comment questioned whether the building was insured against possible damage resulting from an earthquake. Section 4.01 of the proposed lease arrangement between the Plan and Rock-Flower, Incorporated, the tenant, provides that the tenant shall keep the building insured for the mutual benefit of the landlord (Plans) and tenant against such other risks and in such amounts as landlord (Plans) may reasonably require provided that such insurance is then customarily maintained in buildings of similar construction, use and class in the area in which the premises are located, provided that in no circumstances shall earthquake insurance be required unless customarily included in the standard form of extended coverage property damage policy.

The second comment recommended that any approval of the exemption be subject to a rental figure which is subject to an inflation adjusted escalation clause. The comment suggested that the lease be adjusted at the beginning of the fifth year and re-evaluated every 5 years thereafter based on Department of Labor statistics.

In response to the comments the Employer submits that in the context of the lease, an escalation clause which provides for more frequent escalations than presently contemplated by the lease would be unusual in lease transactions of such complexity. Further, the Employer submits that earthquake insurance on a property of the type and in the location described in the application would not be customary. However, if such insurance should become customary, the lease obligates the tenant to obtain and maintain that type of insurance. Coldwell Banker Management Corporation in its appraisal and evaluation of the lease terms stated that the proposed lease, as a whole, was favorable to the Plan.

On the basis of all the facts and representations contained in the application, including the conclusion by Coldwell Banker Management Corporation, a major, independent real estate management corporation, that under the circumstances the terms of the ground lease are very favorable to the Plans, the Department believes that the requested exemption should be granted as proposed.

Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, the notice of pendency was issued and the exemption is being granted solely by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Further, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plans.

The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the contribution of property located at the northeast corner of Fifth and Flower Streets, Los Angeles, California, and the ground lease thereon, by the Employer to the Trust.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 3d day of October 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-31157 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-57; Exemption Application No. D-1122]

Exemption From the Prohibitions for Certain Transactions Involving St. Louis Union Trust Co.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the purchase by the St. Louis Union Trust Company (the Trustee) of certain securities for its own account from the Collective Employees Trust Benefit Fund G (G Fund) of which it served as trustee.

FOR FURTHER INFORMATION CONTACT: Frederic G. Burke of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, telephone (202) 523-8515. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 3, 1979, notice was published in the **Federal Register** (44 FR 39053) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of

1954 (the Code) by reason of sections 4975(c)(1)(A) through (E) of the Code, for a transaction described in an application filed by the Trustee pursuant to section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75–1 [40 FR 18471, April 28, 1975].

The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application on file with the Department for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department.

In addition, the notice stated that any interested person might submit a written request that a public hearing be held relating to the exemption. No public comments and no requests for a hearing were received by the Department.

The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this exemption is granted solely by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply, and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan, and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to and not in derogation of any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Further, the fact that a transaction is subject to an administrative exemption, statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plans and of their participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plans.

Therefore, the prohibitions of sections 406(a), 406(b)(1), and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the purchase by the St. Louis Union Trust Company for its own account from the Collective Employees Trust Benefit Fund G of which it served as trustee of Mesker Brothers Industries, Inc. 8% Convertible Subordinated Debenture due June 30, 1994, at the $125,000 face value.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 3d day of October 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79–31158 Filed 10–11–79; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 79–56; Application Nos. L–1314, L–1330, L–1331, and L–1332]

Employee Benefit Plans; Exemption From the Prohibitions for Certain Transactions

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: The exemption involves Retail Employees' Union, Local 919, and Subscribing Employers' Health and Welfare Plan, New England Retail Food Clerks' and Employers' Pension Plan, Retail Employees' Union Local 919 Pension Plan, and Retail Clerks Local 919 Health and Welfare Plan (Application Nos. L–1314, L–1330, L–1331, and L–1332, collectively, the Plans). This exemption permits the Plans' trustees (the Trustees) who represent the Retail Employees' Union Local 919 (the Union), to participate in the decision to retain the Union to provide certain goods and services to the Plans.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 13, 1979, notice was published in the Federal Register (44 FR 40958) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act). The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No requests for a hearing were received by the Department. However, the Department received one comment from the Trustees' representative. The commentator stated that the Retail Clerks International Union, AFL–CIO, with which the Union is associated, has merged with the Amalgamated Meat Cutters and Butcher Workmen of North

America, AFL–CIO, and is now known as the United Food and Commercial Workers International Union, AFL–CIO. Although no change has yet been adopted, the names of the Plans and the name and local number of the Union may change at some future time due to the merger. The Trustees of the Plans request that the exemption be made applicable both to the current names of the Plans and the Union as well as such names as may be selected for these entities in the future. The Department concurs in this request.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) This exemption does not extend to transactions prohibited under section 406(a), 406(b) (1) and (3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the restrictions of section 406(b)(2) of the Act shall not apply, effective January 1, 1975, to the decision by the Trustees to retain the Union to provide goods and services to the Plans as described in the proposed exemption. This exemption shall also apply to any successors of the Plans and the Union whose present names may be changed as a result of the merger by the Union with another union.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 3d day of October 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-31159 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1177]

Proposed Exemption for a Certain Transaction Involving the Peninsular Supply Co. Employees' Pension Plan

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of real property by the Peninsular Supply Company Employees' Pension Plan (the Plan) to the ITT Grinnell Corporation (the Corporation), the parent corporation of the Peninsular Supply Company (the Employer). The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer, the Corporation and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 9, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–1177. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton, of the Department of Labor, telephone (202) 523–8194. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code.

The proposed exemption was requested in an application filed by the Corporation, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). This application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer, a Delaware corporation established in 1971, is in the business of wholesale distribution of plumbing supplies and other products. The Employer is a wholly owned subsidiary of the Corporation.

2. The Plan, established in 1968, has total assets of $1,031,390, as of October 1978, for the benefit of 115 participants.

3. The Plan trustee, Ms. Maryevelyn Blankenship, is an employee of the Employer and has sole responsibility for making investment decisions. Ms. Blankenship is neither an officer, director, nor shareholder of either the Employer or the Corporation.

4. The Plan owns real property located in Swain County, North Carolina (the Property). It was contributed to the Plan in 1970 and 1971 by the predecessor company of the Employer. At the time of

its contribution, the fair market value of the Property was $149,000.

5. The Property, a relatively large tract of land, was appraised in 1976 and 1977. Both appraisals valued the Property at $142,750, based on splitting the Property into two tracts. However, both appraisals indicated that if the entire tract was sold to one buyer, the fair market value of the Property should be discounted. The 1976 appraisal concluded that the appraisal value should be discounted by 7.5% and the 1977 appraisal concluded the discount should be 10%. These discounts were based upon the higher site development and carrying costs for large tracts and the fewer numbers of potential buyers for such tracts.

6. Beginning in 1970, the Plan attempted to develop the Property as a vacation area. This effort proved unsuccessful. By 1974, it became apparent that the costs of subdividing the Property for vacation use was not, from an economic standpoint, a possibility for the Plan. Any business or commercial use of the Property was found to be impractical as well because it is located in a remote, mountainous area of North Carolina.

7. The Plan has been attempting to sell the entire tract of land to an unrelated party since May 1978. The Property has been listed with the Lance Agency in Bryson City, Swain County, North Carolina. No inquiries regarding the purchase of the Property have been received to date and it remains on the market.

8. The Plan, prior to 1976, covered the salaried and hourly employees of the Employer. On January 1, 1976, the active salaried employees became members of the ITT Retirement Plan for Salaried Employees. All retirees, beneficiaries, and hourly employees remained with the Plan. At this time, it is desirable to transfer the Plan assets attributable to the salaried employees to the ITT Retirement Plan. Sale of the Property and the giving of cash by the Plan to the ITT Retirement Plan, rather than a division of the Property, would facilitate this transfer.

9. The Corporation wishes to purchase the Property from the Plan to alleviate the problems the Plan faces by retaining it. The Corporation represents that it is in a better position to absorb the potential loss on the sale of the Property to an unrelated party. The Corporation proposes to pay $142,750, an amount equal to the appraised value of the Property without the discount for sale to one party.

10. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(1) It would be a one-time transaction for cash;

(2) The Plan would be able to dispose of ostensibly unmarketable real property which is unproductive of income;

(3) The sale would be for an amount which is at least equal to the fair market value of the Property; and

(4) The Plan assets will be sufficiently liquidated to accommodate the required transfer of funds from the Plan without necessitating the sale of other, more productive Plan assets.

Notice to Interested Persons

All Plan participants and beneficiaries will be notified within a period of five days after the notice of pendency is published in the **Federal Register**, by letter, containing a copy of the notice of pendency of the proposed exemption as published in the **Federal Register**, and advising these persons of their rights to comment and/or request a hearing. In addition, copies of this notification will be posted for a period of thirty days in a conspicuous location in all buildings where Plan participants and beneficiaries are currently employed by the Employer.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1. If the exemption is granted, the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975 (c)(1) (A) through (E) of the Code, shall not apply to the sale for cash of the Property by the Plan to the Corporation for $142,750 provided that this amount is not less than the fair market value of the Property.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 3d day of October 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-31160 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 79-55; Exemption Application No. 14-34]

Exemption From the Prohibitions for Certain Transactions Involving the Prudential Insurance Co. of America

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the acts of the Prudential Insurance Company of America (the Fiduciary) in effectuating inter-account transfers of certain publicly-traded common stock between various accounts managed by the Fiduciary on a day selected in advance by the Fiduciary within a ninety (90) day period following the date the Fiduciary receives its last applicable regulatory approval or exemption from various federal and state government agencies.

FOR FURTHER INFORMATION CONTACT: C. E. Beaver of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, (202) 523-8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 10, 1979, notice was published in the **Federal Register** (44 FR 47186) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act), for transactions described in an application filed by the Fiduciary. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no requests for a hearing were received by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) This exemption does not extend to transactions prohibited under section 406(a), 406 (b)(1) and (b)(3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispostive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and the procedures set forth in ERISA Procedure 75-1 (40 FR 18371, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interest of the plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plan.

The restrictions of section 406(b)(2) of the Act shall not apply to the acts of the Fiduciary in effectuating inter-account transfers of certain common stocks, described in the proposed exemption, on a day selected in advance by the Fiduciary, within a ninety (90) day period following the date the Fiduciary receives its last applicable regulatory approval or exemption from various federal and state government agencies.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C. this 3d day of October 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-31161 Filed 10-4-79; 3:02 pm]

BILLING CODE 4510-29-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 79-60]

Class Exemption for Certain Transactions Involving Employee Benefit Plans Maintained by Insurance Agents and Brokers

AGENCY: Department of Labor.

ACTION: Grant of class exemption.

SUMMARY: This exemption permits the effecting of a sale of an insurance or annuity contract to an employee benefit plan and the receipt of a commission with respect to such sale by an agent or broker who is the employer maintaining the plan or a related person. In the absence of this exemption, such transactions might be prohibited by the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The exemption will affect participants and beneficiaries of plans to which such insurance products are furnished, employers maintaining these plans, certain related persons that are covered by the exemption, and other persons participating in the transactions.

EFFECTIVE DATE: January 1, 1975

FOR FURTHER INFORMATION CONTACT: Ivan Strasfeld, U.S. Department of Labor, Pension and Welfare Benefit Programs, Office of Fiduciary Standards, Room C-4526, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-7352. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On January 19, 1979, notice was published in the **Federal Register** (44 FR 4027) of the pendency before the Department of Labor (the Department) of a proposed class exemption from the restrictions of sections 406(a) and 406(b) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1) of the Code. The proposed class exemption was requested in two applications, one filed jointly by the National Association of Life Underwriters (NALU) and the Association for Advanced Life

Underwriting (AALU) [1] and the other filed by Connecticut General Life Insurance Company.[2] The notice set forth a summary of facts and representations contained in the applications, and referred interested persons to the applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C.[3]

The proposed class exemption permitted the effecting of a transaction for the purchase, with employee benefit plan assets, of an insurance or annuity contract by an insurance agent or broker who is the employer maintaining the plan, or a person related to the employer, and the receipt of a sales commission by the agent or broker in connection with such purchase. The proposed class exemption contained specific conditions to protect the interests of plan participants and beneficiaries, including requirements that the agent or broker effecting the sale have a specified relationship to the plan; that the plan pay no more than adequate consideration for the insurance or annuity contracts; and that the total commissions received by the agent or broker in each taxable year derived from sales made pursuant to the exemption not exceed five percent of the total commissions received in that taxable year by such agent or broker.

The Department proposed the class exemption based on representations that it is common practice for insurance agents and brokers to establish employee benefit plans for themselves and their employees and to fund these plans with insurance or annuity contracts. Under these circumstances, it would be contrary to normal business practice to require a plan, which can secure funding and other insurance contracts through its employer or a person who has an interest in the success of the plan, to purchase such products through an unrelated person.

The Department also noted that Prohibited Transaction Exemption 77–9 (PTE 77–9), as amended (44 FR 1479, January 5, 1979), generally would be unavailable to exempt those transactions engaged in by agents and brokers which were the subject of the proposed exemption. However, in publishing the proposed class exemption, the Department did not intend to provide relief to all categories of persons excluded from using PTE 77–9. Rather, the Department proposed to provide exemptive relief only to those agents or brokers who sponsor plans and persons substantially related to the plan sponsor.

The applications were filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

The notice invited interested persons to submit written comments or requests for a hearing on the proposed exemption to the Department. Pursuant to the notice, over 45 comments have been submitted to the Department. No requests for a hearing were received. The Department has determined to adopt the proposed class exemption with certain modifications. The significant public comments received are discussed below.

I. Discussion of Comments Received

A. *Percentage Limitation:* Several commentators questioned the need for the five percent, or any mechanical, limitation on commissions received from sales of insurance effected pursuant to the exemption. It was contended that the five percent limitation fails to consider that the first year commissions on sales of insurance are much greater than the renewal commissions received by the agent or broker in later years. The Department is not persuaded that this argument has merit. Both with respect to initial sales and renewals thereof, the Department believes that commissions earned under this exemption should represent but an incidental portion of total sales commission revenues received by the agent or broker. Accordingly, as a safeguard against the potential for self-dealing abuse, the condition provides no additional allowance for initial sales; and therefore receipts derived from initial sales effected by such agent or broker and those derived from renewals are, in the aggregate, subject to the five percent test.

The Department also believes that the five percent of commissions test will ensure that exemptive relief is unavailable to an insurance agency established primarily for the purpose of providing insurance to an In-House Plan. The presence of independent customer business will help safeguard the plan against less than arm's-length transactions.

B. *Scope of Exemption:* Included within the scope of the proposed exemption are those agents or brokers who are parties in interest or disqualified persons with respect to a plan by reason of a relationship to the employer maintaining the plan that is described in section 3(14)(H) of the Act and section 4975(e)(2)(H) of the Code. A number of commentators argued that the types of relationships thus covered by the proposed exemption were too broad and urged deletion of those persons described in section 3(14)(H) of the Act and section 4975(e)(2)(H) of the Code. The commentators contended that many such persons do not have a substantial economic interest in the corporation or entity maintaining the plan and are not personally interested in the success of the plan so as to mitigate the effects of conflicts-of-interest which may exist. The Department believes that these arguments have merit and is amending the exemption to provide relief only to those persons described in section 3(14)(H) of the Act and section 4975(e)(2)(H) of the Code who are employees, officers, directors, or 10 percent or more shareholders, of an employer any of whose employees are covered by the plan. The Department believes that, with respect to those persons excluded under section 3(14)(H) of the Act and section 4975(e)(2)(H) of the Code, it is feasible to require prior approval of the sales transactions by an independent fiduciary on behalf of the plan. Those persons excluded may, depending on the particular facts and circumstances, qualify for exemptive relief under PTE 77–9 if the conditions of that exemption are satisfied.[4]

Some commentators pointed out that, despite the clear purpose of the exemption to provide relief solely for certain transactions involving plans maintained by insurance agents and brokers, the proposed exemption could be interpreted to cover transactions with other plans. A minor language change has been made to the exemption to make clear that the relief only is available for transactions with plans which are maintained by insurance agents and brokers.

C. *General Agents.* In light of comments received, the Department is modifying the exemption so as to permit

[1] NALU and AALU filed Exemption Application No. D–985.

[2] Exemption Application No. D–040.

[3] Numerous applications were also received for individual exemptions concerning transactions of the type described in the proposed class exemption. All such transactions will be exempted if they satisfy the terms and conditions of the class exemption.

[4] PTE 77–9 would be available, for example, if the agent or broker is not the trustee of the plan purchasing the contracts, the plan administrator, a fiduciary expressly authorized to manage plan assets on a discretionary basis, or an "affiliate" of such persons, as the term is defined in Section VI of that Exemption.

those general agents who have the requisite relationship to the plan purchasing the contracts to receive override commissions on sales effected by another agent or broker pursuant to the exemption.

General Information

It should be noted that under section 408(d) of the Act, no exemption may be granted under section 408(a) for transactions of the type described herein between a plan and certain persons such as an owner-employee as defined in section 401(c)(3) of the Code, or a shareholder-employer ad defined in section 1379 of the Code. The proposed exemption is intended, however, to be applicable to such persons for purposes of section 4975 of the Code.

It should be also be noted that the term "insurance or annuity contract", as used in the exemption, is intended to cover contracts issued by insurance companies including those which provide only for the provision of administrative services.

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person/party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his/her duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) The exemption set forth herein is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

Proposed Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and based upon the entire record including the written comments submitted in response to the notice of January 19, 1979, the Department makes the following determinations:

(a) The class exemption set forth herein is administratively feasible;

(b) It is in the interest of plans and of their participants and beneficiaries; and

(c) It is protective of the rights of participants and beneficiaries of plans.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1.

Effective January 1, 1975, the restrictions of sections 406(a) and 406(b) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) of the Code, shall not apply to sales of insurance or annuity contracts effected for an employee benefit plan maintained by an insurance agent or broker and to the receipt of sales commissions in connection with such sales by an agent or broker if the following conditions are met:

(a) The insurance agent or broker effecting the sale and/or receiving commissions:

(1) Is an employer any of whose employees are covered by the plan;

(2) Is a 10 percent or more partner in capital or profits of an employer described in subparagraph (1);

(3) Is an employee, officer, director (or an individual having powers or responsibilities similar to those of officers or directors), or a 10 percent or more shareholder of an employer described in subparagraph (1); or

(4) Is a disqualified person or party in interest with respect to the plan by reason of an affiliation with the employer establishing or maintaining the plan that is described in section 3(14) (E) or (G) of the Act and section 4975(e)(2) (E) or (G) of the Code. For purposes of the condition set forth in paragraph (a)(1), an "employer" includes a sole proprietor maintaining a plan in which he or she is the only participant.

(b) The plan says no more than adequate consideration for the insurance contracts or annuities.

(c) Effective for taxable years of the insurance agent or broker beginning after October 4, 1980, the total commissions received in each taxable year of the agent or broker as a result of effecting transactions under this exemption do not exceed five percent of total insurance commission income received in that taxable year by such agent or broker.

Signed at Washington, D.C. this 9th day of October, 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-31491 Filed 10-11-79; 8:45 am]

BILLING CODE 4510-20-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[79-85]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

The Informal Ad Hoc Advisory Subcommittee on Operating Systems and Safety of the NAC AAC will meet November 5–6, 1979, in Building E–104 (Management Education Center), NASA Wallops Flight Center, Wallops Island, Virginia. The meeting will be open to the public but is limited to seating space available (approximately 60 persons including subcommittee members and participants).

The Subcommittee was established to assist the NASA in identifying specific needs and objectives for improving the operational effectiveness and safety of transport aircraft, which are dependent upon further research and technology investigations of related technical disciplines, and to advise the NASA on the appropriateness and adequacy of its current and planned programs in this area. The Chairperson is Mr. J. D. Smith and there are 17 members of the Subcommittee.

Agenda

November 5, 1979

8:30 a.m.—Introductory Remarks
9:00 a.m.—NASA Update Landing Loads Track
10:15 a.m.—FAA Airport Pavement Research Needs
10:45 a.m.—NASA Energy Efficient Profile Descent
11:15 a.m.—NASA Automatic Piloted Advisory System
1:00 p.m.—NASA Demonstration of Wallops Flight Center Automatic Pilot Advisory System
2:00 p.m.—Systems Technology Inc. Summary of Current Avionics and Controls Plan
2:30 p.m.—Discussion of Plan and Task Priorities

November 6, 1979

8:30 a.m.—NASA Review of Aircraft to Satellite Data Relay
9:00 a.m.—NASA Review of Severe Storms Research Programs

11:15 a.m.—Committee Discussion and Formulation of Recommendations
2:00 p.m.—Adjourn

For further information contact Mr. Kenneth E. Hodge, Executive Secretary of the Subcommittee, Code RJT, NASA Headquarters, Washington, DC 20546. Telephone 202/755–3000.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

October 5, 1979.

[FR Doc. 79–31479 Filed 10–11–79; 8:45 am]

BILLING CODE 7510–01–M

[79–83]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting

The Informal Ad Hoc Advisory Subcommittee on Materials and Structures of the NAC SSTAC will meet October 31 and November 1, 1979, in Room 225, Building 1219, NASA Langley Research Center, Hampton, Virginia. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the Subcommittee members and participants).

The Subcommittee was established to assess program balance between the materials, structures, and structural dynamics program elements and the adequacy of current and planned R&T activities in terms of future forecast space mission requirements. The Subcommittee is to recommend program modifications, deletions, or changes in scope or emphasis to support overall NASA future space systems technology objectives. The Chairperson is Dr. Bernard Budiansky. There are currently seven members on the Subcommittee. Following is the approved agenda for the meeting:

Agenda

October 31, 1979

8:30 a.m.—Introductory Remarks
9:00 a.m.—NASA Materials and Structures Space Technology Program Review
1:00 p.m.—Review of Space Transportation Systems Program

November 1, 1979

8:30 a.m.—Review of Large Space Systems Program
1:00 p.m.—Subcommittee Discussion

For further information please contact Dr. Leonard A. Harris, Executive Secretary of the Subcommittee, Code RTM–6, NASA Headquarters, Washington, DC 20546. Telephone 202/755–2365.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

October, 1979.

[FR Doc. 79–31477 Filed 10–11–79; 8:45 am]

BILLING CODE 7510–01–M

[79–84]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee; Meeting

A meeting of the Informal Executive Subcommittee of the Space Systems and Technology Advisory Committee will be held November 1, 1979 from 1:30 a.m. to 5:00 p.m. in Room 647, NASA Headquarters, 600 Independence Avenue SW., Washington, D.C. 20546. The meeting will be open to the public up to the seating capacity of the room (about 15 persons including Subcommittee members and participants).

The Space Systems and Technology Advisory Committee was established to advise NASA senior management through the NASA Advisory Council in the area of space research and technology. The purpose of the Executive Subcommittee meeting is to discuss and plan activities of the informal ad hoc subcommittees for fiscal year 1980. The Chairperson is Mr. Robert L. Johnson. There are seven members on the Informal Executive Subcommittee.

For further information, please contact C. Robert Nysmith, Executive Secretary, (202) 755–3252, NASA Headquarters, Code RP–4, Washington, D.C. 20546.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

October 5, 1979.

[FR Doc. 79–31478 Filed 10–11–79; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Chemistry; Meeting

IN accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

NAME: Advisory Committee for Chemistry.

DATE AND TIME: November 1–2, 1979; 9:00 a.m. to 5:00 p.m. each day.

PLACE: Room 338, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

TYPE OF MEETING: Open.

CONTACT PERSON: Dr. Richard S. Nicholson, Division of Chemistry, National Science Foundation, Washington, D.C., Telephone (202) 632–4262.

PURPOSE OF COMMITTEE: To provide program oversight concerning NSF support for research in chemistry.

AGENDA: The meeting will involve briefing of the Committee by NSF staff on items of topical interest to the Committee. The Committee also will discuss long range planning and oversight of each of the Division's Programs.

Joyce F. Laplante,

Acting Committee Management Coordinator.

October 9, 1979.

[FR Doc. 79–31586 Filed 10–11–79; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee on Special Research Equipment (2- and 4-Year Colleges); Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

NAME: Advisory Committee on Special Research Equipment (2-Year and 4-Year Colleges.)

DATE AND TIME: November 1 and 2, 1979, 9:00 a.m.–5:00 p.m. each day.

PLACE: National Science Foundation, 1800 G Street, N.W., Rooms 421, 428 and 1224, Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Howard H. Hines, Science Associate, Office of Planning and Resources Management, Division of Budget and Program Analysis, Room 428, National Science Foundation, Washington, D.C. (202) 632–5876.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research equipment for colleges and universities without doctoral programs in sciences and engineering (or having only very small doctoral programs).

AGENDA: To review and evaluate research equipment proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of proprietary or confidential nature, including technical information 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 Pub. 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.
October 9, 1979.
[FR Doc. 79–31589 Filed 10–11–79; 8:45 am]
BILLING CODE 7555–01–M

Advisory Council; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

NAME: NSF Advisory Council.

PLACE: Room 540, National Science Foundation, 1800 G Street, N.W., Washington D.C. 20550.

DATE: Thursday, November 1, and Friday, November 2, 1979.

TIME: 9 a.m. until 5 p.m., both days.

TYPE OF MEETING: Open.

CONTACT PERSON: Mr. Bruce Darling, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street, N.W., Washington D.C. 20550. Telephone (202) 632–4384.

PURPOSE OF ADVISORY COUNCIL: The purpose of the NSF Advisory Council is to provide advice and counsel to the NSF Director and principal members of his staff on Foundation-wide issues which require the expertise of the many and varied disciplines and program interests represented in the Foundation.

SUMMARY MINUTES: May be obtained from the contact person at above stated address.

AGENDA: The agenda of the two day meeting will include discussion of the final reports of the four remaining task groups and introduction of new Advisory Council members and assignment and discussion of new tasks.

Dated: October 9, 1979.

Joyce F. Laplante,
Acting Committee, Management Coordinator.
[FR Doc. 79–31591 Filed 10–11–79; 8:45 am]
BILLING CODE 7555–01–M

Advisory Subcommittee for Materials Research Laboratories; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

NAME: Advisory Subcommittee for Materials Research Laboratories.

DATE: November 1 and 2, 1979.

TIME: 9 a.m.–5 p.m. each day.

PLACE: National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550, Room 543.

TYPE OF MEETING: November 1, Closed. November 2, Open.

CONTACT PERSON: Dr. R. J. Wasilewski, Head, Materials Research Laboratory, Room 408, National Science Foundation, Washington, D.C. 20550, Telephone (202) 632–7408.

SUMMARY MINUTES: May be obtained from the Contact Person, Dr. R. J. Wasilewski, at the above stated address.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning core support of research at the Materials Research Laboratories.

AGENDA: November 1—Review and evaluation of research proposals and programs as part of the selection process for awards. November 2—To review the existing MRL policy, and to provide advice and recommendations for the future program directions.

REASON FOR CLOSING: The first day's meeting is closed since 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 the exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Joyce F. Laplante,
Acting Committee Management Coordinator.
October 9, 1979.
[FR Doc. 79– 31593 Filed 10–11–79; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee on Anthropology of the Advisory Committee for Behavioral and Neural Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Anthropology of the Advisory Committee for Behavioral and Neural Sciences.

DATE AND TIME: November 7, 8, 9, 9:00–5:00 p.m.

PLACE: National Science Foundation, 1800 G Street, N.W., Room 321, Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. John E. Yellen, Program Director for Anthropology, NSF, Room 320, Washington, D.C., (202) 632–4208.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in anthropology.

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 Officer, pursuant to provisions of Section 10(d) of Pub. 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.
October 9, 1979.
[FR Doc. 79–31592 Filed 10–11–79; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee for Condensed Matter Sciences; Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee on condensed Matter Sciences of the Advisory Committee for Materials Research.

DATE: October 30 and 31, 1979.

TIME: 9:00 a.m.–5:00 p.m. each day.

PLACE: National Science Foundation, 1800 G Street, N.W., Rooms 540, October 30 and 543, October 31, Washington, D.C. 20550.

TYPE OF MEETING: Open, both days.

CONTACT PERSON: Dr. Lewis H. Nosanow, Section Head, Condensed Matter Sciences, Room 404, National Science Foundation, Washington, D.C. 20550, Telephone (202) 632–7404.

SUMMARY MINUTES: May be obtained from the Contact Person, Dr. Lewis H. Nosanow, at the above stated address.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in condensed matter sciences.

AGENDA: General discussion of the current status and future plans of the Condensed Matter Sciences Section.

Joyce F. Laplante,

Acting Committee Management Coordinator.

October 9, 1979.

[FR Doc. 79-31587 Filed 10-11-79; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee on Developmental Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Developmental Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.

DATE AND TIME: November 1, 2, and 3, 1979—9 a.m. to 5 p.m. each day.

PLACE: Room 643, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Mary E. Clutter, Program Director, Developmental Biology Program, Room 326, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4314.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in developmental 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 Officer pursuant to provisions of Section 10(d) of Pub. 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.

October 9, 1979.

[FR Doc. 79-31588 Filed 10-11-79; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee on Molecular Biology, Group B, of the Advisory Committee for Physiology, Cellular, and Molecular Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Molecular Biology, Group B, of the Advisory Committee for Physiology, Cellular and Molecular Biology.

DATE AND TIME: October 29 and 30, 1979; 9:00 a.m. to 5:00 p.m. each day.

PLACE: Room 338, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Donald Green, Program Director, Biochemistry Program, Room 330, National Science Foundation, Washington, D.C., 20550, Telephone: 202-632-4260.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in Molecular 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 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.

October 9, 1979.

[FR Doc. 79-31590 Filed 10-11-79; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on the La Crosse Boiling Water Reactor; Meeting

The ACRS Subcommittee on the La Crosse Boiling Water Reactor will hold a meeting on October 26, 1979 in Room 1046, 1717 H St. NW., Washington, D.C. 20555. The purpose of this meeting is to consider proposed changes to the existing spent fuel storage pool to accommodate a larger number of spent fuel assemblies. This meeting has been rescheduled from October 19, 1979. Notice was published in the **Federal Register** on September 20, 1979 (44 FR 54559).

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979 (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Friday, October 26, 1979

8:30 a.m. Until the Conclusion of Business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the Dairyland Power Cooperative, et al., and their consultants, pertinent to this review.

The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether any aspects need to be reviewed by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to

the Designated Federal Employee for this meeting, Mr. John C. McKinley, (telephone 202/634–3265) between 8:15 a.m. and 5:00 p.m., EDT.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the La Crosse Public Library, 800 Main Street, La Crosse, WI 54601.

Dated: October 5, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-31509 Filed 10-11-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Proposed Revised System of Records and Proposed New System of Records

AGENCY: Office of Personnel Management.

ACTION: Notice; Proposed revision of an existing system of records and a proposed new system of records.

SUMMARY: The Office of Personnel Management (OPM) published on May 29, 1979 (44 FR 30836), a notice of proposed revisions to the former Civil Service Commission's systems of records remaining in effect under Section 902 of the Civil Service Reform Act of 1978, Public Law 95–454. Among the system notices to be revised was CSC–8, Personnel Research and Test Validation Records, which was to become OPM/CENTRAL–3, Personnel Research and Test Validation Records. The purpose of this proposal is to advise that OPM intends to now revise the CSC–8 system to become OPM/GOVT–6, Personnel Research and Test Validation Records. The OPM/CENTRAL–3 system is therefore not adopted. Additionally, this proposal also identifies a new system of records to be known as OPM/GOVT–7, Applicant Race, Sex, Ethnicity, and Disability Status Records.

COMMENT DATE: Any interested party may submit written comments regarding these proposals. To be considered, comments must be received on or before November 12, 1979.

ADDRESS: Address comments to the Deputy Assistant Director for Work Force Information, Agency Compliance and Evaluation, Office of Personnel Management, (Room 6410), 1900 E Street NW., Washington, D.C. 20415. Comments received will be available for public inspection at the above address from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: William H. Lynch, Work Force Information Division (202) 254–9778.

SUPPLEMENTARY INFORMATION: The original CSC–8 system of records was designed to cover only those personnel research and test validation records that were physically maintained by the former Commission's (now OPM's) Personnel Research and Development Center (PRDC). Since these records pertained to current and former Federal employees and applicants for Federal employment, when revising the former CSC systems of records it was our intention to identify them as an OPM/CENTRAL record system. This approach, however, would not cover similar records that agencies have maintained or will maintain in the future on their own applicants or current and former employees, either as a direct result of an OPM request or when doing research or validation surveys on their own initiative under the Uniform Guidelines on Employee Selection Procedures. OPM has now determined that it is appropriate for OPM's system notice to cover these agency records, thereby changing the system to a Government-wide system. By doing this, those agency records maintained as a system of records and used for personnel research projects or in test validation surveys would be covered. Agencies may be maintaining such records either at the request of and under the direction of OPM or, alternatively, under OPM's oversight responsibility for personnel management policies and practices (including authority to determine adverse impact in the total selection process of Executive Branch agencies). Because in either case OPM would need to review agency personnel research and test validation records, including those where the agency initiated the research, OPM may appropriately publish such a Government-wide system of records.

Regarding the proposed new system of records, OPM/GOVT–7, Applicant Race, Sex, Ethnicity, and Disability Status Records, it is OPM's intention to use the records in this system to implement the requirement of Section 310 of the Civil Service Reform Act of 1978, codified as 5 U.S.C. 7201, and the Uniform Guidelines on Employee Selection Procedures (1978). The law (5 U.S.C. 7201(c)) specifically requires the Office of Personnel Management to implement a minority recruitment program for Executive Branch agencies. Additionally, as a party to the development of the Uniform Guidelines on Employee Selection Procedures, the Office of Personnel Management is committed to actions which will eliminate prohibited discrimination in employment practices on grounds of disability, race, color, religion, sex, or national origin in so far as OPM Government-wide authorities permit. Additionally, OPM is committed to actions that accomplish these aims while assuring that the individual's self-identification is not provided to the selecting official. Thus, not only is it appropriate for OPM to publish a Government-wide system of records for use in meeting these mandates, but a single OPM Government-wide system of records, along with accompanying regulations and guidance, will help assure that such records will be properly maintained. It will also alleviate the need for every Executive Branch agency to publish its own systems notice for such records.

There are several cities in the system notices to 5 CFR Part 297. These regulations were published as proposed in the **Federal Register** of May 29, 1979 (44 FR 30820). Final regulations will be published after consideration of comments.

Concurrent with publication of this proposal for a revised and a new system of records, a "Report on New Systems" has been filed with Congress and the Office of Management and Budget. No waiver of the 60-day advance period has been requested and, therefore, these systems will become effective, as proposed, on December 11, 1979, unless comments received necessitate changes. The complete text of both system notices appears below.

Office of Personnel Management

Beverly M. Jones,

Issuance System Manager.

OPM/GOVT–6

SYSTEM NAME:

Personnel Research and Test Validation Records

SYSTEM LOCATION:

Director, Personnel Research and Development Center, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, OPM regional offices (see list of regional office addresses in the Appendix to OPM's Federal Register notice of proposed systems, 44 FR 30836, May 29, 1979), and agency personnel offices (or other designated offices) conducting such programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal employees; applicants for Federal employment; current and former State and local government employees; applicants for State and local government employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information on education and employment history, test scores, responses to test items and questionnaires, interview data, and ratings of supervisors regarding the individuals to whom the records pertain. Additional information (race, ethnicity, disability status, and background) is collected from applicants for certain examinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C. Sections 1303 and 3301.

PURPOSE:

These records are collected, maintained, and used by the Office or agencies for the construction, analysis, and validation of written tests, and for research on and evaluation of personnel/organizational measurement and selection methods. Such research includes studies extending over a period of time (longitudinal studies). Race and ethnicity data are used to evaluate the selection process of these examinations as required by the Uniform Guidelines on Selection Procedures. Use of these race and ethnicity data is limited to research projects conducted by the Office or agencies.

The records also may be used by the Office or agencies to locate individuals for personnel research. Data are collected on a project-by-project basis under conditions assuring the confidentiality of the information. No personnel actions or selections are made using these research records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. By the agency maintaining the records in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

b. To furnish personnel records and information to the Equal Employment Opportunity Commission for use in determining the existence of adverse impact in the total selection program, in reviewing allegations of discrimination, or in assessing the status of compliance with Federal law.

c. To furnish information to the Merit Systems Protection Board including the Office of the Special Counsel in connection with actions by offices relating to allegations of discriminatory practices on the part of an agency or one of its employees.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and on punched cards, disks, and magnetic tapes.

RETRIEVABILITY:

Records are generally maintained by project. Personal information can be retrieved by name or personal identifier only for certain research projects such as those involving longitudinal studies.

SAFEGUARDS:

Records are kept in locked files in a locked room with access limited to authorized staff. Access to tape, disk, and other files used in data processing will be only by authorized staff.

RETENTION AND DISPOSAL:

Records are retained for two years, unless needed in the course of litigation or other administrative actions involving a research or test validation survey. Manual records are destroyed by shredding or burning. Magnetic tapes or disks are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Research and Development Center, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the System Manager above, the OPM regional office servicing the State where they are employed (see list of OPM regional office addresses in the Appendix to OPM's system of records, 44 FR 30836, May 29, 1979), or their employing agency's personnel office. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Title, time, and/or place of test validation research study in which individual participated.

d. Social Security Number.

e. Signature.

RECORD ACCESS PROCEDURES:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding access to records. The section of this notice titled *Systems exempted from certain provisions of the Act* which appears below, indicates the kinds of materials exempted and the reasons for exempting them from access. Individuals wishing to request access to any non-exempt records should contact the System Manager indicated above, the OPM regional office, or their agency personnel or other designated office, as appropriate. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Title, time, and/or place of test validation research study in which individual participated.

d. Social Security Number.

e. Signature.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding access to records and verification of identity (5 CFR 297.203 and 297.201).

CONTESTING RECORD PROCEDURES:

Specific materials in this system have been exempted from Privacy Act provisions (5 U.S.C. 552a(d)) regarding amendment of records. The section of this notice titled *Systems exempted from certain provisions of the Act*, which appears below, indicates the kinds of materials exempted and the reasons for exempting them from amendment. Individuals wishing to request amendment of any non-exempt records should contact the System Manager indicated above, the OPM regional office, or their agency personnel or other designated office, as appropriate. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of bith.

c. Title, time, and/or place of test validation research study in which individual participated.

d. Social Security Number.

e. Signature.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations regarding amendment of records and verification of identify (5 CFR 297.208 and 297.201).

RECORD SOURCE CATEGORIES:

Individual Federal, State, or local employees or applicants, supervisors, assessment center assessors, agency or Office personnel files and records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system contains testing and examination materials that are used solely to determine individual qualifications for appointment or promotion in the Federal service. The Privacy Act, at 5 U.S.C. 552a(k)(6), permits an agency to exempt all such testing and examination material and information from certain provisions of the Act, when the disclosure of the material would compromise the objectivity or fairness of the testing or examination process. The Office of Personnel Management has claimed exemptions from the requirements of 5 U.S.C. 552a(d). These requirements relate to access to and amendment of records. The specific materials exempted include the following:

a. Answer keys.

b. Ratings given for the purpose of validating examinations.

c. Rating schedules, including crediting plans.

d. Rating sheets.

e. Test booklets, including the written instructions for their preparation.

f. Test item files.

g. Transmutation tables.

h. Test answer sheets.

OPM/GOVT-7

SYSTEM NAME:

Applicant Race, Sex, Ethnicity and Disability Status Records.

SYSTEM LOCATION:

Records in this system may be located in the following offices:

1. Personnel Research and Development Center (PRDC), Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415;

2. Office of Affirmative Employment Programs, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415;

3. OPM Regional Offices (list of OPM regional office addresses appears in the Appendix to OPM's published notices of systems of records, 44 FR 30836, May 29, 1979) and any register-holding area offices under the jurisdiction of a regional office; and

4. Agency Personnel, Equal Employment Opportunity, or Federal Equal Opportunity Recruitment offices or other designated offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for Federal employment and include:

1. Applicants for examinations administered either by OPM or by agencies;

2. Applicants on registers maintained by OPM and subject to its regulations;

3. Applicants for positions in agencies having direct hire authority and using their own examining procedures in compliance with OPM regulations;

4. Applicants whose records are retained in an agency Equal Opportunity Recruitment file (including any file an agency maintains on current employees from under-represented groups); and

5. Applicants (including current and former Federal employees) who apply for vacancies announced under an agency's merit promotion plan.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include the individual's name, Social Security Number, date of birth, statement of major field of study, type of current or former Federal employment status (e.g., career or temporary), and race, sex, ethnicity and disability status, data. Such information is generally obtained by use of OPM forms 1377, 1377A, and 1386, from applicants including those who are Federal employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7201, and Sections 4A, 4B, 15A (1) and (2), 15B(11), and 15D(11), Uniform Guidelines on Employee Selection Procedures (1978), 43 FR 38297 et seq. (August 25, 1978).

PURPOSE:

These records are used by OPM and agencies to:

1. Evaluate personnel/organizational measurement and selection methods;

2. Implement and evaluate agency affirmative action programs;

3. Implement and evaluate agency Federal Equal Opportunity Recruitment Programs (including establishment of minority recruitment files);

4. Determine adverse impact in the selection process as required by the Uniform Guidelines cited in the Authority section above. (See also, "Questions and Answers," on those guidelines published in the **Federal Register**, 44 FR 11996, March 2, 1979); and

5. Locate individuals for personnel research.

Note: These data are maintained only on those applicants who voluntarily provide it and under conditions assuming that the individual's self identification as to race, sex, ethnic origin, or disability status, does not accompany that individual's application when it is under consideration by a selecting official.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To disclose information to the Equal Employment Opportunity Commission (EEOC), in response to its request for use in the conduct of an examination of an agency's compliance with the Uniform Guidelines on Employee Selection Procedures (1978), or other requirement imposed on agencies under EEOC authorities promulgated in Reorganization Plan No. 1 of 1978 in connection with agency Equal Employment Opportunity programs.

b. To disclose information to the Merit Systems Protection Board, including the Office of the Special Counsel, in response to its request, to enable the processing of appeals and special studies relating to the civil service and other merit systems in the executive branch authorized under 5 U.S.C. 1205(a)(1) and (3).

c. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

d. To disclose information to a Federal agency in response to its request for use in its Equal Opportunity Recruitment Program, to the extent that the information is relevant and necessary to the agency's efforts in identifying possible sources for minority recruitment.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

f. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

g. To disclose information in response to the order of a court of competent jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders, on magnetic tape, and on disks.

RETRIEVABILITY:

Records are retrieved by the name and Social Security Number of the individuals on whom they are maintained.

SAFEGUARDS:

Records are retained in lockable metal filing cabinets in a secured room or in a computerized system accessible by confidential passwords issued only to specific personnel.

RETENTION AND DISPOSAL:

Records are retained for the period of time needed to process applications and prepare adverse impact and related reports or for two years, whichever is longer. The exception to this would be when records are needed in the course of litigation and must be maintained until this litigation is completed. Manual records are shredded or burned and magnetic tapes or disks are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Research and Development Center (PRDC), Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Only those individuals who have voluntarily furnished the information by completing OPM Forms 1386, 1377, or 1377A are covered by this system of records. Those individuals wishing to inquire if this system contains information about them should contact the system manager listed above or the OPM regional office if they completed the form when making application for Federal employment directly with an OPM office. All others should contact the Personnel, Equal Employment Opportunity, or Federal Equal Employment Opportunity Recruitment office or other designated office at the agency where they volunteered the information. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Social Security Number.

c. Title of examination, position or vacancy announcement for which they volunteered the data.

d. The OPM or agency office where they submitted the information.

e. Signature.

RECORDS ACCESS PROCEDURE:

Individuals wishing to request access to records about themselves should contact the same offices shown in the Notification Procedure section above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Social Security Number.

c. Title of examination, position or vacancy announcement for which they volunteered the data.

d. The OPM or agency office where they submitted the information.

e. Signature.

An individual requesting access must also follow the Office's Privacy Act regulations regarding access to records and verification of identity (5 CFR 297.203 and 297.201).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the same offices shown in the Notification procedure section above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Social Security Number.

c. Title of examination position, or vacancy announcement for which they volunteered the data.

d. The OPM or agency office where they submitted the information.

e. Signature.

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding amendment of records and verification of identity (5 CFR 297.208 and 297.201).

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom the record pertains.

[FR Doc. 79-31575 Filed 10-11-79; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21239; (70-6311)]

General Public Utilities Corp., et al.; Posteffective Amendment Regarding Increase in Short-Term Limit

October 4, 1979.

Notice is hereby given that General Public Utilities Corporation ("GPU"), a registered holding company, and its electric utility subsidiaries Jersey Central Power & Light Company ("Jersey Central"), Metropolitan Edison Company ("Met-Ed"), and Pennsylvania Electric Company ("Penelec"), have filed with this Commission a post-effective amendment to their application-declaration in this proceeding pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 6(b), 7, 9(a), 10, 12(b) and 12(d) of the Act and Rules 44, 45, 50(a)(2) and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

In the Matter of General Public Utilities Corp., 260 Cherry Hill Road, Parsippany, New Jersey 07054; Jersey Central Power & Light Co., Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960; Metropolitan Edison Co., 2800 Pottsville Pike, Muhlenberg Township, Berks County, Pennsylvania 19605; Pennsylvania Electric Co., 1001 Broad Street, Johnstown, Pennsylvania 15907.

By order dated June 19, 1979 (HCAR No. 21107), this Commission authorized GPU, Jersey Central, Met-Ed and Penelec to issue, sell and renew from time to time through October 1, 1981 their respective promissory notes (the "Notes") having a maturity of not more than six months from the date of issue, pursuant to a revolving credit agreement with a syndicate of commercial banks (the "loan agreement"). Aggregate borrowings under the loan agreement are limited to $500,000,000 and Met-Ed's borrowings thereunder are limited to $125,000,000. The indebtedness under the loan agreement was to be secured by an unconditional guarantee given by GPU, as well as the pledge by GPU to the banks of the common stock of Jersey Central, Met-Ed, Penelec and GPU Service Corporation, and, in the cases of Jersey Central and Met-Ed, certain other collateral.

The order further provided, among other things, that the aggregate principal amount of Notes representing indebtedness under the loan agreement which Met-Ed could have outstanding at any one time, when added to borrowings effected by Met-Ed pursuant to the authority granted by this Commission in File No. 70-6283, could not exceed the lesser of (a) $90,000,000 or (b) the limit imposed by Met-Ed's Charter. Met-Ed now requests that the maximum amount of such indebtedness (when added to borrowings made pursuant to File No. 70-6283) be increased to the lesser of (a) $125,000,000 or (b) the amount permitted by Met-Ed's Charter. In all other respects the transactions as heretofore

authorized by the Commission would remain unchanged.

No fees, commissions and expenses are to be incurred in connection with the proposed transaction other than as previously stated. It is stated that the Pennsylvania Public Utilities Commission has jurisdiction over Met-Ed's proposed issuance and sale of Notes. No other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 29, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-31643 Filed 10-11-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 10892; 812-4496]

First Investors Tax Exempt Fund, Inc.; Notice of Filing of Application for Order Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Section 22(d) of the Act

Notice is hereby given that First Investors Tax Exempt Fund, Inc., 120 Wall Street, New York, New York 10005 ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on June 18, 1979, and amendments thereto on July 10, 1979, July 23, 1979, and September 10, 1979, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 22(d) of the Act to permit the sale of shares of Applicant at a reduced sales charge: (1) to participants in a reinvestment program proposed to be offered to unitholders of Insured Municipals-Income Trust Series 1 and Subsequent Series (including unitholders of series of its predecessor, The First National Dual Series Tax Exempt Bond Trust) ("Income Trust"), a unit investment trust registered under the Act, and (2) to participants in a reinvestment program proposed to be offered to unitholders of Investors' Municipal-Yield Trust Series 1 and Subsequent Series ("Yield Trust"), another unit investment trust registered under the Act (Income Trust and Yield Trust are hereinafter collectively referred to as 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.

Applicant states that its investment objective is to provide a high level of tax exempt interest income by investing in a managed portfolio of debt obligations, the interest on which is exempt from federal income tax, and the principal and interest payments on which are insured by an independent insurance company. First Investors Management Company, Inc. ("Adviser"), is the investment adviser of Applicant. Applicant states that the Trusts are sponsored by Van Kampen Sauerman, Inc., a broker-dealer registered under the Securities Exchange Act of 1934. According to the application, the Trusts seek to obtain income which is exempt from federal income taxation and to conserve capital through investment by each series of the Trusts in interest bearing obligations which, in the opinion of bond counsel, are exempt from federal tax. The application states that the Trusts also invest in units of previously issued series of the Trusts and that the timely payment of principal and interest on the obligations purchased by each series of Income Trust is guaranteed by an independent insurance company.

Applicant states that its shares are offered for sale to the public at net asset value plus a sales charge which varies from 7.25% to 1.25% (of the offering price) based upon the amount invested. The minimum initial investment in Applicant is $2,000 and subsequent investments must be made in amounts of $500 or more. According to the application, shareholders of Applicant may reinvest dividends declared on shares of Applicant at the net asset value in effect at the close of business on the dividend payment date.

Applicant proposes to permit unitholders of the Trusts to reinvest their distributions of interest, capital gains and principal on units of the Trusts in shares of Applicant at net asset value plus a sales charge of 0.4%, a purchase price which is less than the current public offering price described in Applicant's prospectus, without regard to Applicant's minimum initial investment requirements. The application states that all unitholders of the Trusts will be eligible to participate in the reinvestment programs, but will be required to reinvest the entire amount of all semi-annual, quarterly or monthly distributions from any series of the Trusts. The application further states that: (1) existing unitholders will be notified of the reinvestment privilege and asked to indicate their interest in reinvesting distributions, and (2) unitholders of the Trusts will be provided with a prospectus of Applicant prior to becoming participants in the reinvestment plans. Applicant states that each prospectus of future series of the Trusts will disclose the existence of the reinvestment privilege and provide a means for unitholders to indicate interest in reinvesting distributions in shares of Applicant. Unitholders who have elected to participate in the reinvestment program will, according to the application, be entitled to all rights of any shareholder of Applicant, but will not be entitled to a reduced sales charge for quantity purchases of Applicant's shares and will not have the right to exchange shares of Applicant acquired pursuant to the reinvestment program for shares of other companies managed by the Adviser. The application states that any participant wishing to purchase shares of Applicant outside the reinvestment programs will be required to satisfy the minimum investment requirements of Applicant, which are set forth above.

According to the application: (1) on each distribution date, or immediately thereafter, the trustee for the Trusts will forward funds representing participants' distributions of interest income, capital gains and principal to Applicant's transfer agent who will purchase shares

of Applicant for each participant at the net asset value per share next determined after receipt of the purchase order, and (2) the transfer agent will maintain separate accounts for each participant in the reinvestment program and will mail confirmations concerning transactions to each participant. The application further states that a participant may elect to terminate participation in the reinvestment program and receive future distributions in cash by notifying the trustee for the Trusts in writing at least five days prior to the distribution date.

Applicant states that its prospectus will be amended to state that unitholders of the Trusts will be permitted to invest their distributions in shares of Applicant at net asset value per share plus a reduced sales charge of 0.4% of the offering price, and states that the Adviser will retain the entire 0.4% sales charge and will bear the distribution expenses associated with the reinvestment programs.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it 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 prospectus. Accordingly, Applicant requests an exemption from the provisions of Section 22(d) of the Act to permit the sale of its shares at a reduced sales charge to participants in the reinvestment programs proposed to be offered by the Trusts.

Section 6(c) of the Act provides, in 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.

Applicant submits that Section 22(d) of the Act is intended to ensure that all investors purchase investment company securities on an equal basis and to prevent dilution of existing shareholders' equity. It asserts that because participants in the reinvestment program will be required to purchase shares at current net asset value plus a sales charge, the equity of existing shareholders will not be diluted. Applicant further asserts that the reduced sales charge is fair and equitable and in the best interest of Applicant's shareholders. In support of these assertions, Applicant states that it believes that the sales costs associated with sales made pursuant to the reinvestment program will be lower than the costs associated with other sales of its shares. Applicant submits that such savings should be passed on to investors in the form of lower sales charges, and states that it believes the 0.4% sales charge to be sufficient to cover the increase in distribution expenses arising from the program. Applicant further states that its shareholders will benefit from the reinvestment program because an increase in Applicant's cash flow will enable it to meet redemptions without liquidating investments in its portfolio and will enable it to diversify further its securities holdings. Therefore, Applicant submits that the exemption it requests is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 26, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

FR Doc. 79-31642 Filed 10-11-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21241; 70-6323]

Indiana & Michigan Electric Co. and Indiana & Michigan Power Co.; Notice of Proposed Merger of Generating Subsidiary Into Parent

Notice is hereby given that Indiana & Michigan Electric Company ("I&M"), 2101 Spy Run Avenue, Fort Wayne, Indiana 46801; an electric utility subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, and Indiana & Michigan Power Company ("IMP"), an electric utility subsidiary of I&M, have filed with this Commission an application-declaration and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b), 9, 10, and 12 of the Act and Rules 42 and 43 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

I&M, an Indiana corporation, requests authorization to merge its generating subsidiary, IMP, a Michigan Corporation, into itself. IMP was organized in 1971 to complete construction of and to operate the Donald C. Cook Nuclear Plant, consisting of two nuclear-fueled generating units, with a combined generating capacity of 2,150 megawatts, situated near Bridgman, Michigan. It was originally intended that these facilities be built and operated by I&M. By order dated May 21, 1971 (HCAR No. 17135), I&M was authorized to transfer the facilities to IMP. All of the common stock of IMP is owned by I&M, which is IMP's sole customer.

The proposed merger will be carried out in accordance with all applicable Indiana and Michigan laws, including provisions under which the following will occur upon consummation of the merger: (1) title to all property of IMP will become vested in I&M; (2) all liens upon the respective properties of I&M and IMP will be preserved unimpaired; and (3) I&M will become liable for all of the obligations of IMP.

The proposed merger will be consummated pursuant to a Plan of Merger ("Plan") to be adopted by the Board of Directors of I&M. The Plan will

provide, among other things, that the outstanding shares of IMP common stock, all of which are owned by I&M, will be extinguished. No authorization or consent by any shareholders of I&M or IMP is required under the laws of the states of Indiana or Michigan, nor is any required under the corporate charters of the merging entities.

I&M proposes, pursuant to article 14 of IMP's mortgage and deed of trust ("Deed of Trust"), to execute and deliver to the trustee a supplement to the Deed of Trust in which supplement I&M, as successor to IMP, would assume and agree to pay the principal of and interest on the first mortgage bonds issued thereunder and would agree to perform and fulfill all of the covenants and conditions thereof.

I&M also proposes that it will, subsequent to the effective date of the merger and prior to its utilization of any property owned by IMP at the effective date of the merger as property additions for the purpose of authenticating bonds under I&M's deed of trust, or for any other purpose thereunder, execute and deliver to the trustees under I&M's deed of trust a supplement conveying to said trustees, subject to the prior lien of the IMP Deed of Trust, such properties of IMP as can be utilized by I&M as property additions under its deed of trust.

At March 31, 1979, IMP had outstanding $11,000,000 principal amount of notes to banks, due 1980, and $69,000,000 principal amount of notes held by I&M. It is contemplated that the notes due banks will be repaid prior to the effective date of the merger, and that the notes held by I&M will be cancelled when the merger becomes effective.

It is stated that by eliminating the separate corporate existence of IMP, the proposed merger will simplify the corporate structure of I&M and of the AEP holding company system.

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that the Public Service Commission of Indiana and the Michigan Public Service Commission have jurisdiction over the proposed transactions and that the Nuclear Regulatory Commission may have jurisdiction over possible amendments to IMP's operating licenses to reflect the merger. No other state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may not later than November 2, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including ther date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-31641 filed 10-11-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 16255]

Midwest Stock Exchange, Inc.; for Unlisted Odd-Lot Trading Privileges in Certain Securities and of Opportunity for Hearing

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted odd-lot trading privileges in the securities of the companies set forth below:

Family Dollar Stores, Inc., Common Stock ($.10 Par Value); Presley Company, Common Stock ($.1875 Par Value); Western & Continental Airlines, Common Stock ($1.00 Par Value); and South Atlantic Financial Corporation, Common Stock ($.01 Par Value).

The above companies' securities are among those listed and registered on the New York Stock Exchange, Inc. ("NYSE") that currently are not listed or admitted to unlisted trading privileges on the Midwest Stock Exchange, Inc. ("MSE").[1]

Upon receipt of a request, on or before October 30, 1979 from any interested person, the Commission will determine whether the application with respect to any or all of the securities named shall be set down for hearing. Any such request should state briefly the title of the security to which the request pertains, the nature of the interest of the person making the request and the position that such person proposes to take at a hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. Reference should be made to File No. 7-5110. If not one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the Commission's official files pertaining thereto.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-31639 Filed 10-11-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21242; 70-6359]

System Fuels, Inc., et al.; Notice of Proposed Lease of Rail Hopper Cars by Nonutility Subsidiary of Operating Companies and Guaranty of Obligations Relating Thereto by Parent Operating Companies

In the matter of SYSTEM FUELS, INC., Noro Plaza, 666 Poydras, New Orleans, Louisiana 70130; ARKANSAS POWER & LIGHT CO., First National Building, Little Rock, Arkansas 72203; MISSISSIPPI POWER & LIGHT CO., Electric Building, Jackson, Mississippi 39205; LOUISIANA POWER & LIGHT CO., 142 Delaronde Street, New Orleans, Louisiana 70174; NEW ORLEANS PUBLIC SERVICE INC., 317 Baronne Street, New Orleans, Louisiana 70112.

Notice is hereby given that System Fuels, Inc. ("SFI"), a jointly-owned non-utility subsidiary of Arkansas Power & Light Company ("Arkansas"), Louisiana Power & Light Company ("Louisiana"), Mississippi Power & Light Company ("Mississippi"), and New Orleans Public

[1] *See* Securities Exchange Act Release Nos. 14800 (May 25, 1978), 15906 (June 8, 1979), and 16156 (August 31, 1979).

Service Inc. ("NOPSI") (collectively, the "Parent Companies"), all public utility subsidiaries of Middle South Utilities, Inc. ("Middle South"), a registered holding company, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9, 10 and 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below for a complete statement of the proposed transactions.

SFI proposes to lease up to 600 open top rail hopper cars ("Equipment") to provide fuel transportation for the Middle South System. The Equipment represents 5 trainsets of 110 cars each, plus 50 spares. In order to help assure meeting the 105 minimum number of cars to be tendered for loading provision of the governing ICC tariff, trainsets are sized at 110 cars. The 50 spare cars represent that number of spares which SFI presently believes is sufficient to maintain the running fleet size. Initially, the Equipment will be used to transport coal from Wyoming to Units No. 1 and 2, scheduled for completion in 1980 and 1981, respectively, of the White Bluff Steam Electric Generating Station ("White Bluff Station") being constructed by Arkansas. Unit No. 1 of the White Bluff Station will require approximately 2.5 million tons of western coal annually to be supplied by the Equipment. Cycle time for 1980 for each of the above trainsets to Wyoming and return to Arkansas is 183 hours. Each 110-car trainset will carry 11,000 tons of coal per trip. Under these circumstances each trainset will be capable of delivering slightly over one-half million tons of coal per year. The five trainsets should be capable of delivering the 2.5 million ton coal requirement. The Equipment will be leased pursuant to a lease ("Lease") between SFI and First Security State Bank, Salt Lake City, Utah, a non-affiliate, as Trustee ("Owner Trustee").

The Equipment is being manufactured by Bethlehem Steel Corporation ("Manufacturer"). Delivery of, and payment for, the Equipment is expected to commence in November, 1979, with 500 cars ("Schedule A Equipment") to be delivered and paid for by the end of 1979 and the remaining 100 cars ("Schedule B Equipment") to be delivered and paid for in January, 1980. The Manufacturer will sell the Equipment to the Owner Trustee pursuant to a Conditional Sales Agreement and will retain a security interest therein. The currently estimated cost ("Owners Cost") of the Equipment is $23,100,000 and is subject to escalation primarily based upon increases in certain Manufacturer's costs. Any amounts in excess of $24,000,000 will be excluded from Owner's Cost. SFI will be obligated to purchase any cars not purchased by Owner Trustee as a result of such exclusion.

The Owner Trustee will finance the purchase of the Equipment with funds to be advanced to it by First Security National Bank & Trust Company ("First Security National"), Lexington, Kentucky and Westinghouse Credit Corporation ("Westinghouse"), (collectively, "Owner Participants") as an investment in the beneficial ownership of the Equipment and with funds to be borrowed on a long-term basis ("Debt") by the Owner Trustee from Metropolitan Life Insurance Company ("Loan Participant"). The Owner Participants will advance approximately 34.50 percent and 33.25 percent of the Owner's Cost of the Schedule A Equipment and Schedule B Equipment respectively. Debt will represent the remaining 65.50 percent and 66.75 percent of the Owner's Cost for the Schedule A Equipment and Schedule B Equipment, respectively. Neither SFI nor its affiliated companies will be liable for payment of either the principal of, premium (if any) or interest on the Debt. The Debt matures on July 1, 1996 with respect to Schedule A Equipment and on January 1, 1997 with respect to the Schedule B Equipment. Concurrently with the receipt of funds for the purchase price of the Equipment, the Manufacturer will assign its security interest to the Loan Participant. To further secure payment of the Debt, the Owner Trustee will assign its rights and interest under the Lease, including all payments and other amounts payable thereunder. SFI, as lessee under the Lease, will acknowledge a consent to such assignment.

SFI will enter into the Lease concurrently with the initial purchase of Equipment by the Owner Trustee. The Lease will be a net lease conferring all responsibility for operation, maintenance, insurance, certain taxes, and other expenses upon SFI. SFI will be obligated to maintain the Equipment in good operating order and will have the right to make at its expense certain modifications and improvements to the Equipment. The Lease will be noncancellable, except in the event of: (a) total loss, destruction, irreparable damage or condemnation of the Equipment or (b) upon a determination by SFI, on or after July 1, 1983, that the Equipment has become economically obsolete.

The basic term ("Basic Term") of the Lease will terminate on July 1, 1998. Lease payments over the Basic Term will be made in one interim payment on July 1, 1980 and thereafter in 36 semi-annual installments, payable in arrears, commencing on January 1, 1981. Each semi-annual payment will be equal to 4.14506 percent of the Owner's Cost for Schedule A Equipment plus 4.18496 percent of Owner's cost for Schedule B Equipment. SFI understands that the Owner Trustee will apply approximately 89 percent of the lease payments made by SFI over the Basic Term of the Lease to the payment of principal and interest on the Debt incurred by the Owner Trustee. SFI will have the option to renew the Lease for up to two consecutive one-year terms ("Initial Renewals") at semi-annual rates equal to 50 percent of the rates during the Basic Term. At the expiration of the Initial Renewals, SFI may, at its option, renew the Lease for up to two additional consecutive one year terms at the then fair market rental value of the Equipment from the Owner Trustee which has been leased under the Lease for 20 years.

It is stated that the Schedule A and Schedule B Lease rates, during the Basic Term may be deemed equivalent to effective annual interest rates of 4.69 percent and 4.82 percent, respectively, or a composite rate equivalent to a 4.71 percent effective annual interest rate.

The Parent Companies of SFI will covenant and agree that so long as SFI shall have any obligations under the Lease and related documents, the Parent Companies will severally in accordance with their present respective shares of ownership in the common stock of SFI, take any and all action as, from time to time, may be necessary to keep SFI in a sound financial condition and to place SFI in a position to perform and discharge, and will cause SFI to perform and discharge, in a timely manner, all of its obligations under the Lease and certain related documents.

The fees, commissions and expenses to be incurred in connection with the proposed transactions will be filed by amendment. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transactions. Arkansas is required to and has filed pertinent information with the Arkansas Public Service Commission relating to its participation in the proposed transactions.

Notice is further given that any interested person may, not later than

October 31, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above stated addresses and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-31640 Filed 10-11-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 08/08-0048]

Capital Corporation of Wyoming, Inc.; Issuance of a Small Business Investment Company License

On June 13, 1979, a notice was published in the **Federal Register** (44 F.R. 33996) stating that an application has been filed by Capital Corporation of Wyoming, Inc., 145 South Durbin Street, P.O. 612, Casper, Wyoming 82602, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. 107.102(1979)) for a license as a small business investment company.

Interested parties were given until close of business June 28, 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. 08/08-0048 on September 27, 1979, to Capital Corporation of Wyoming, Inc., to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 5, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

FR Doc. 79-31603 Filed 10-11-79; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 02/02-5363]

Capital Investors & Management Corp.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Capital Investors & Management Corp. (applicant), with the Small Business Administration (SBA), pursuant to 13 C.F.R. 107.102 (1979).

The officers, directors and stockholders of the applicant are as follows:

Chin-Po Liu, 39 Ursula Drive, Roslyn, New York 11576, President, Director, 22% Stockholder.

Lin Chen, 200 Winston Drive, Apt. 1214, Cliffside Park, New Jersey 07010, Vice Pres., Director, 20% Stockholder.

Yet Sen Robert Chen, 2 Tanglewood Drive, Wappingers Falla, New York 12590, Director, 22% Stockholder.

Norman Lau Kee, 12 Beekman Place, New York, New York 10022, Chairman of the Board, 22% Stockholder.

Nathan Chao, 45-51 168th Street, Flushing, New York 11358, Secretary, Treasurer, Director, 14% Stockholder.

The applicant, a New York Corporation, with its principal place of business at 3 Pell Street, Suite 2, New York, New York 10013, will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 500 shares of common stock.

The applicant will conduct its activities initially in the State of New York and eventually on a national basis.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 5, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-31606 Filed 10-11-79; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-5175]

Sun-Delta Capital Access Center, Inc.; Issuance of a License To Operate as a Small Business Investment Company

On August 17, 1979, a notice was published in the **Federal Register** (44 FR 48409), stating that Sun-Delta Capital Access Center, Inc., located at 819 Main Street, Greenville, Mississippi 38701, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1979), for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business September 4, 1979, to

submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 04/04–5175 to Sun-Delta Capital Access Center, Inc., on September 25, 1979.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 5, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-31604 Filed 10-11-79; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-5176]

Tennessee Venture Capital Corp.; Issuance of a License To Operate as a Small Business Investment Company

On August 21, 1979, a notice was published in the **Federal Register** (44 FR 49036), stating that Tennessee Venture Capital Corporation, located at 170 Fourth Avenue North, Nashville, Tennessee 37219, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1979), for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business September 4, 1979, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 04/04–5176 to Tennessee Venture Capital Corporation on September 28, 1979.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 5, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-31605 Filed 10-11-79; 8:45 am]

BILLING CODE 8025-01-M

TENNESSEE VALLEY AUTHORITY

Policy Statement on the Area Limitation Provisions of Section 15d(a) of the TVA Act

AGENCY: Tennessee Valley Authority.

ACTION: Statement of policy.

SUMMARY: The Board of Directors of the Tennessee Valley Authority has adopted a statement of policy reaffirming that TVA will confine its area of electric service to the boundary fixed by Section 15d(a) of the Tennessee Valley Authority Act of 1933, 48 Stat. 58, *as amended*, 16 U.S.C. 831–831dd (1976).

FOR FURTHER INFORMATION CONTACT: Lee C. Sheppeard, Acting Director of Information, Tennessee Valley Authority, Knoxville, Tennessee 37902, telephone number (615) 632–3257.

STATEMENT OF POLICY: The Board of Directors of the Tennessee Valley Authority adopted the following Statement of Policy on September 20, 1979, as a rule and regulation under the Tennessee Valley Authority Act of 1933, 48 Stat. 58, *as amended*, 16 U.S.C. 831–831dd (1976):

TVA has heretofore stated and now deems it appropriate to reaffirm that its policy and practice will be to confine its area of electric service to the boundary as fixed by Section 15d(a) of the TVA Act and adopts as its construction of Section 15d(a) of the TVA Act that the Federal Energy Regulatory Commission does not have authority to order TVA to engage in any power arrangements which would be contrary to any of the provisions of Section 15d(a) of the TVA Act.

Dated: October 4, 1979.

W. F. Willis,

General Manager.

[FR Doc. 79-31549 Filed 10-11-79; 8:45 am]

BILLING CODE 8120-01-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on October 31, 1979, at 1:00 p.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Estes Kefauver Federal Building—U.S. Courthouse, Room A–220, 110 9th Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in State Area Vocational-Technical School, 620 Mosby Avenue, Memphis, Tennessee, should be discontinued, as provided in 38 C.F.R. 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: October 5, 1979.

R. S. Bielak,

Director, VA Regional Office.

[FR Doc. 79-31542 Filed 10-11-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 139]

Assignment of Hearings

October 5, 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 138313 (Sub-45F), Builders Transport, Inc., now assigned for hearing on October 31, 1979 (3 days), at Portland, OR, will be held in Room No. 103, Pioneer Courthouse, 555 S.W. Yamhill Street.

MC 115904 (Sub-118F), Grover Trucking Co., now assigned for hearing on November 5, 1979 (1 week), at Portland, OR, will be held in Room No. 103, Pioneer Courthouse, 555 S.W. Yamhill Street.

AB–43 (Sub-56F), Illinois Central Gulf RR Co abandonment near Kevil and Barlow in Ballard and McCracken Counties, KY, now assigned for hearing on October 29, 1979 at Paducah, KY is postponed to December 3, 1979 (5 days), at Paducah, KY, in a hearing room to be later designated.

MC 109533 (Sub-106F), Overnite Transportation Company, now assigned for continued hearing on November 14, 1979 at the Office of Interstate Commerce Commission, Washington, DC.

MC 138469 (Sub-96F), Donco Carriers, Inc., now assigned for hearing on December 5, 1979 (1 day) at Kansas City, MO in a hearing room to be later designated.

MC 73165 (Sub-466F), Eagle Motor Lines, Inc., now assigned for hearing on December 6, 1979 (1 day), at Kansas City, MO in a hearing room to be later designated.

MC 44735 (Sub-36F), Kissick Truck Lines, Inc., now assigned for hearing on December 7, 1979 (1 day), at Kansas City, MO in a hearing room to be later designated.

MC 128007 (Sub-130F), Hofer, Inc., now assigned for hearing on December 10, 1979 (2 days), at Kansas City, MO in a hearing room to be later designated.

MC 115357 (Sub-10F), TAT, Inc., now assigned for hearing on December 12, 1979 (3 days), at Kansas City, MO in a hearing room to be later designated.

MC 111729 (Sub-744F), Purolator Courier Corp., now assigned for continued hearing on November 20, 1979 at Memphis, TN, in a hearing room to be later designated.
MC 31389 (Sub-267F), McLean Trucking Company, now being assigned for hearing on November 26, 1979 (3 days), at Indianapolis, IN, location of hearing room to be latter designated.
MC 116544 (Sub-165F), Altruk Freight Systems, Inc., now being assigned for hearing on December 11, 1979 (9 days), at Orlando, FL, in a hearing room to be designated later.
MC 138550 (Sub-1F), W. Smith Cartage Company, Inc., now being assigned for hearing on November 28, 1979 (3 days), at Chicago, IL, in a hearing room to be designated later.
MC 119741 (Sub-131F), Green Field Transport Company, Inc., now being assigned for hearing on December 3, 1979 (3 days), at Grand Rapids, MI, in a hearing room to be designated later.
MC 44735 (Sub-40F), Kissick Truck Lines, Inc., now being assigned for hearing on December 11, 1979 (2 days), at Dallas, TX, in a hearing room to be designated later.
MC 140033 (Sub-63F), Cox Refrigerated Express, Inc., now being assigned for hearing on December 13, 1979 (2 days), at Dallas, TX, in a hearing room to be designated later.
MC 134405 (Sub-56F), Bacon Transport Company, now being assigned for hearing on December 17, 1979 (5 days), at Dallas, TX, in a hearing room to be designated later.
MC 135684 (Sub-89F), Bass Transportation Co., Inc., now being assigned for Prehearing Conference on November 19, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.
MC 114552 (Sub-203F), Senn Trucking Company, a Corporation now being assigned for hearing on November 20, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.
Ex Parte No. 315 (Sub-No. 1), In The Matter of Kenneth R. Davis now being assigned for hearing on November 6, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.
MC 138902 (Sub-11F), ERB Transportation Co., Inc., now being assigned for hearing on November 14, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.
MC 87103 (Sub-31F), Miller Transfer and Rigging Co., now being assigned for hearing on November 20, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.
MC 95540 (Sub-1070F), Watkins Motor Lines, Inc., now being assigned for hearing on November 20, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.
MC 114457 (Sub-470F), Dart Transit Company, a Corporation now being assigned for hearing on November 5, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.
MC 142846 (Sub-1F), Royal Coach Tours, now being assigned for hearing on December 4, 1979 (2 days), at San Francisco, CA, in a hearing room to be designated later.
MC 141033 (Sub-49F), Continental Contract Carrier Corporation, now being assigned for hearing on December 6, 1979 (2 days), at San Francisco, CA, in a hearing room to be designated later.
MC 111545 (Sub-263F), Home Transportation Company, Inc., now being assigned for hearing on December 10, 1979 (1 week), at San Francisco, CA, in a hearing room to be designated later.
MC 136393 (Sub-3F), N.Y., N.J., Conn., Freight & Messsenger Corporation, now assigned for hearing on October 29, 1979 at New York, NY, will be held at the Federal Building, Room No. E-222, 26 Federal Plaza, New York, NY.
MC 114569 (Sub-266 and 279F), Shaffer Trucking, Inc., now assigned for continued hearing on October 23, 1979 at Washington, DC. is postponed to October 29, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.
MC 14252 (Sub-42F), Commercial Lovelace Motor Freight, Inc., now being assigned for hearing on January 8, 1980 (9 Days), at Columbus, OH, in a hearing room to be designated later.
MC 14286 (Sub-3F), MCO Transport, Inc., now being assigned for hearing on December 12, 1979 (3 Days), at Charlotte, NC, in a hearing room to be designated later.
MC 111548 (Sub-13F), Sharpe Motor Lines, Inc., now being assigned for hearing on December 17, 1979 (5 Days), at Charlotte, NC, in a hearing room to be designated later.
MC 142703 (Sub-13F), Intermodal Transportation Services, Inc., now being assigned for hearing on December 10, 1979 (3 Days), at Columbus, OH, in a hearing room to be designated later.
MC 75320 (Sub-208F), Campbell Sixty-six Express, Inc., transferred to modified procedure.
MC 114273 (Sub-543F), CRST, Inc., transferred to Modified Procedure.
MC 120761 (Sub-47F), Newman Bros. Trucking Company, now assigned for continued hearing on November 28, 1979 (3 Days) at Dallas, TX, location of hearing room will be by subsequent notice.
MC 117993 (Sub-11F), Fruitbelt Trucking, Inc., transferred to Modified Procedure.
MC 145583 (Sub-1F), Xpress Truck Lines, Inc., transferred to modified procedure.
MC 117993 (Sub-15F), Fruitbelt Trucking, Inc., transferred to modified Procedure.
MC 126118 (Sub-132F), Crete Carrier Corporation, transferred to modified procedure.
MC 116254 (Sub-228F), Chem-Haulers, Inc., transferred to Modified Procedure.
MC 136511 (Sub-28F), Virginia Appalachian Lumber Corp., now assigned for hearing on October 25, 1979 at Washington, DC, is postponed to December 3, 1979 (5 days), at Charlotte, NC, in a hearing room to be later designated.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-31504 Filed 10-11-79; 8:45 am]

BILLING CODE 7035-01-M

Decision; Petition To Stay Service Order No. 1399

Decided September 28, 1979.

Upon consideration of the petition filed by the Railway Labor Executives' Association, on September 27, 1979 [44 FR 56939, Oct. 3, 1979], seeking a stay of Service Order No. 1399 which authorizes the Pend Oreille Valley Railroad, Inc. to operate over tracks of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company between Newport, Washington, and Metaline Falls, Washington.

It is the opinion of the Commission that the facts considered fully support the finding of an emergency; a permanent application is being filed in which labor protection provisions may be considered; and a letter agreement has been executed which will assure that the employees are afforded labor protection reimbursement for any valid established claim.

It is ordered, that, the petition to stay is denied.

By the Commission, Railroad Service Board.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-31501 Filed 10-11-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Application for Relief

October 5, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before October 29, 1979.

FSA No. 43748, Seaspeed Services No. 8, intermodal rates on commodities, in containers, from ports on the Mediterranean Sea to Portland, OR and Seattle, WA, by way of Houston, TX, in its Tariff ICC SSPU 301, FMC No. 8, effective October 26, 1979. Grounds for relief—water competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-31502 Filed 10-11-79; 8:45 am]

BILLING CODE 7035-01-M

[Supplemental Order No. 3; Emergency Directed Service Order No. 1398]

Kansas City Terminal Railway Co.—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

Decided: October 5, 1979.

This decision is being issued to correct a certain oversight contained in the initial Directed Service Order in this

case (decided and served September 26, 1979; published in the **Federal Register** on October 1, 1979 at 44 FR 56343).

The oversight regards the effective and expiration dates of the Directed Service Order. This decision amends the original order to provide that the initial 60-day directed service period does not begin to run until directed service operations are actually commenced.

49 U.S.C. § 11125—and its predecessor (49 U.S.C. § 1(16)(b)(A))—indicate that the 60-day time limitation applies only to the period during which directed service operations are actually being conducted.

Accordingly, we are changing the following portions of the initial Directed Service Order:

Page 56343, second column—After the word "Dates", the following should appear:

KCT is authorized to enter upon RI properties for the purpose of directing service at midnight (central time [CT]) on this decision's service date, and directed operations shall commence no later than 9 days thereafter, unless otherwise authorized by this Commission. This decision and order shall be effective at 12:01 a.m. (CT) on the date upon which directed-service operations are actually commenced, and computation of the initial 60-day directed-service period shall begin at that time. Unless otherwise extended by the Commission, this order shall expire at midnight (CT) on the 60th day after the commencement of directed-service operations.

Page 56351 (ordering paragraph #23)—This paragraph should be changed to read as follows:

23. *Effective Date*—The DRC is authorized to enter upon RI properties for the purpose of directing service at midnight (CT) on the date this decision is served, and directed-service operations shall commence no later than 9 days thereafter, unless otherwise authorized by us. This decision and order shall be effective at 12:01 a.m. (CT) on the date upon which directed-service operations are actually commenced, and computation of the 60-day directed service period shall begin at this time.

Page 56351 (ordering paragraph #24)—This paragraph should be changed to read as follows:

24. *Expiration Date*—Unless modified or extended by the Commission, this decision and order shall expire at midnight (CT) on the 60th day after commencement of directed-service operations.

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

Agatha L. Mergenovich,

Secretary.

Commissioner Gresham, concurring:

In light of the delay in institution of the directed service, this action appears reasonable. However, as indicated in my three prior dissents, I continue to object to the way this proceeding was undertaken and to the way in which this agency is dispensing public funds for directed service.

[FR Doc. 79-31506 Filed 10-11-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-3 (Sub-No. 18)]

Missouri Pacific Railroad Co. Abandonment at Thedford Near Lindale in Smith County, Tex.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided August 24, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91(1979), the present and future public convenience and necessity permit the abandonment by the Missouri Pacific Railroad Company of that portion of its rail lines extending from railroad milepost 30.1 at Thedford, TX, to railroad milepost 32.8 near Lindale, TX, a distance of approximately 2.7 miles in Smith County, TX. A certificate of public convenience and necessity permitting abandonment was issued to the Missouri Pacific Railroad Company. Since the proceeding is now unopposed, the requirements of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served on or before October 29, 1979. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-31505 Filed 10-11-79; 8:45 am]

BILLING CODE 7035-01-M

[No. MC 108461 (Sub-129)F][1]

Sundance Freight Lines, Inc. (Phoenix, Ariz.) and System 99 (Oakland, Calif.); Decision

Decided: August 24, 1979.

On August 6, 1979, Sundance Freight Lines, Inc. and System 99 filed a joint petition for substitution of the latter as applicant in the proceedings.

It is ordered, That System 99 is substituted as applicant in the proceedings instead of Sundance Freight Lines, Inc.

Notice of this order will be published in the **Federal Register.**

By the Commission, Alan M. Fitzwater, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-31503 Filed 10-11-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Scoping Meeting: Notice of Intent

AGENCY: U.S. Army Corps of Engineers Savannah District.

ACTION: Notice of Intent to hold a "Scoping Meeting" on Wednesday, 17 October 1979 at 10 a.m.

SUMMARY: The Savannah District U.S. Army Corps of Engineers will hold a scoping meeting for the Brunswick Harbor Improvement Project. The meeting will be held at the Savannah District Office. The purpose of the meeting will be to discuss environmental issues, tentatively select a plan for harbor improvement, and subsequent development of an Environmental Impact Statement. For details regarding this meeting you may contact Mr. Tom Yourk at commercial number 912/233-8822 X371 or FTS 248-8371.

Tilford C. Creel,

Colonel, Corps of Engineers, District Engineers.

[FR Doc. 79-31771 Filed 10-11-79; 9:57 am]

BILLING CODE 3710-HP-M

---

[1] Includes Nos. MC 108461 (Sub-130TA, 131TA, and 134F).

Sunshine Act Meetings

Federal Register
Vol. 44, No. 199
Friday, October 12, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

BOARD FOR INTERNATIONAL BROADCASTING.

TIME AND DATE: 9 a.m., October 19, 1979.

PLACE: Board for International Broadcasting Conference Room, Suite 430, 1030 15th Street, N.W., Washington, D.C. 20005.

STATUS: Closed, pursuant to 5 U.S.C. 552b(c)(1) 1 CFR 460.4 (c) and (h) of the Board's rules (42 FR 9388, Feb. 16, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the United States Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Arthur D. Levin, Budget and Administrative Officer, Board for International Broadcasting, 1030 15th Street, N.W., Washington, D.C. 20005, 202–254–8040.

[S–1998–79 Filed 10–10–79; 12:58 pm]

BILLING CODE 6155–01–M

2

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., October 16, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items adopted by notation.
2. Docket 36622, Ozark's 60-day notice of its intention to suspend the last certificated nonstop and/or single-plane service in seven markets. (BDA)
3. Docket 36560, Delta's 60-day notice of its intention to suspend the last certificated nonstop and/or single-plane service in 28 markets. (BDA)
4. Docket 30699, *Oakland Service Case (Economic Phase).* Opinion and Order. (Memo No. 7922–F, OGC)
5. Dockets 28331, 32935, and 32060; applications of Hughes Airwest, Republic and Piedmont for removing certain restrictions under the Realignment Program. (Memo No. 9195, BDA)
6. Dockets 35466 and 36621; Establish further procedures and consolidating National's application for authority in Albuquerque and seven beyond markets with the pending *Albuquerque Show-Cause Investigation.* (BDA, OGC, BL)
7. Dockets 36117, 36216, 36240, 36245, 36248, 36252, and 36255; *Denver-Omaha-Des Moines Show-Cause Proceeding;* Applications of Hughes Airwest, Trans World, Western, Eastern, Frontier, Republic, Braniff, for Denver-Omaha/Des Moines Authority. (Memo No. 8964–A, BDA)
8. Docket 36243, Petition of Sky West Aviation, Inc., for temporary and final subsidy rates pursuant to section 406 for service to Cedar City, Utah, and Page, Arizona. (BDA, OGC, OC)
9. Agreement CAB 27337, *et al.*, Agreements for intercarrier division of joint fares. (Memo No. 9081, 9081–A, BDA, OGC, BIA, BCP)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

[S–2002–79 Filed 10–10–79; 3:33 pm]

BILLING CODE 6320–01–M

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2 p.m., October 15, 1979.

PLACE: 2033 K Street, NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1991–79 Filed 10–10–79; 11:26 am]

BILLING CODE 6351–01–M

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., October 16, 1979.

PLACE: 2033 K Street, NW., Washington, D.C., 5th floor conference room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Application of the AMEX Commodities Exchange, Inc., for designation as a contract market in 20 Year Treasury Bonds.

Application of the Commodity Exchange, Inc., for designtion as a contract market in GNMA certificates.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1992–79 Filed 10–10–79; 11:26 am]

BILLING CODE 6351–01–M

5

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., October 16, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Request for Commission review of staff denial of petition for confidential treatment.

Enforcement matters/administrative proceedings.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1993–79 Filed 10–10–79; 11:26 am]

BILLING CODE 6351–01–M

6

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, October 10, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following items have been deleted:

Agenda, Item No., and Subject

General—3—*Minority Ownership Report to the Commission.* On February 14, 1978, the FCC through its Minority Ownership Task Force Issued a contract to CCG, Inc., a research corportion in Cambridge, Mass. to conduct an in depth study of financial institutions' broadcast loan policies and their effect on minorities seeking to acquire broadcast properties. In addition, the FCC contract requested detailed information on the methods used by rating services and whether these services accurately reflect minority audience listening patterns. The Minority Ownership Task Force will present a summary of CCG, Inc.'s study and submit CCG's report and recommendations to the Commission for their consideration of future FCC activities in light of the findings of the study.

Television—2—Application tendered by the Denton Channel Two Foundation for authority to construct a new television broadcast station at Denton, Texas. Request for waiver of Commission Cut-off Rule and acceptance of late-filed application. Bureau recommends granting waiver request and accepting late-filed application.

Cable Television—2—Title: "Application for Review" filed 8/28/78 by Cypress Valley Cablevision, Inc., operator of a CATV system seving Marshall, Texas. Summary: On July 28, 1978 the Cable Television Bureau denied the request of Cypress to add Station KLTV (ABC, Channel 7) Tyler, Texas because the carriage was inconsistent with Section 76.63 of the rules. Cypress now seeks review of that decision on the ground that the requested carriage will not cause undue economic harm to local broadcast stations as explained in *cablecom of Kirksville, Inc.* 71 FCC 2d 587 (1979). The question before the Commission is whether to grant or deny the request for review.

This item was approved on October 2, 1979 by Notation Action Circulation and was inadvertently listed.

Additional information concerning this item may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: October 9, 1979.

[S–1995–79 Filed 10–10–79; 12:58 pm]

BILLING CODE 6712–01–M

7

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, October 10, 1979.

PLACE: Room 856, 1919 M Street N.W., Washington, D.C.

STATUS: Closed Commission Meeting following the Open Meeting scheduled to commence at 9:30 a.m.

CHANGES IN THE MEETING: Additional item to be considered:

Agenda, Item No., and Subject

General—3—Administrative and Personnel Matters.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: October 9, 1979.

[S–1996–79 Filed 10–10–79; 12:58 pm]

BILLING CODE 6712–01–M

8

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, FR Page 57295, October 4, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., October 11, 1979.

PLACE: 1700 G Street, NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling, (202–377–6677).

CHANGES IN THE MEETING: The following items have been added to the agenda for the open meeting.

Policy on Membership Dues and Subscriptions for FHL Banks.

Truth-in-Lending Enforcement Guidelines.

No. 278, October 10, 1979.

[S–2000–79 Filed 10–10–79; 3:33 pm]

BILLING CODE 6720–01–M

9

FEDERAL MARITIME COMMISSION.

TIME AND DATE: October 11, 1979, 10 a.m.

PLACE: Room 12126, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED: 1. Docket No. 79–83: Investigation of Unfiled Agreements in the North Atlantic Trades—Grand Jury Proceedings Regarding North Atlantic Trades.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–1999–79 Filed 10–10–79; 3:33 am]

BILLING CODE 6730–01–M

10

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Friday, October 5, 1979.

PLACE: Hearing Room "A", Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Open Special Conference on Short Notice.

MATTER TO BE DISCUSSED: Status of the Milwaukee Road.

CONTACT PERSON FOR MORE INFORMATION: Douglas Baldwin, Director, Office of Communications, Telephone: (202) 275–7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S–1994–79 Filed 10–10–79; 11:26 am]

BILLING CODE 7035–01–M

11

NATIONAL CONSUMER COOPERATIVE BANK.

Meeting of the Board of Directors.

TIME AND DATE: 9 a.m., Tuesday, October 16, 1979.

PLACE: Board Room (adjoining Room 4002), 4th Floor, National Credit Union Administration, 2025 M Street NW., Washington, D.C.

AGENDA:

1. Approval of Summary Minutes of Meeting of September 25, 1979.
2. Approval of Agenda.
3. Consideration of Proposed Amendments to Bylaws.
4. Consideration of Proposed Revisions to Personnel Policy Statement.
5. Discussion of Implementation Schedule Options.
6. Presentation of Status Report on the Office of Self-Help Development and Technical Assistance by Ms. Jackie Cheeks.
7. Creation of Self-Help Committee.
8. Discussion of Credit and Lending Policies.
9. Creation of Credit and Lending Committee.
10. Discussion of Capitalization Policies.
11. Discussion of Appeals Policy.
12. Discussion and Approval of Revisions to Fiscal 1980 Operating Budget.
13. Adoption of Corporate Seal.
14. Oral Briefing by the Acting President on Administative and Legislative Issues.

STATUS: Open to Public Observation.

CONTACT PERSON FOR MORE INFORMATION: Pruett Pemberton at (202) 376–0890.

John Comerford,

Acting President, National Consumer Cooperative Bank.

[S–1989–79 Filed 10–10–79; 9:58 am]

BILLING CODE 4810–25–M

12

NATIONAL SCIENCE BOARD.

DATE AND TIME: October 18, 1979, 1 p.m., Open Session. October 19, 1979, 9 a.m., Closed Session.

PLACE: National Science Foundation, Rm 540 1800 G Street NW., Washington, D.C.

STATUS: Changes to previously published announcement:

MATTERS TO BE CONSIDERED AT THE OPEN SESSION: Delete item 10: Review of NSF Act of 1950, as Amended.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION: Delete "and Alan T. Waterman Award Committee" from Item C.

CONTACT PERSON FOR MORE INFORMATION: Miss Vernice Anderson, Executive Secretary, (202) 632–5840.

[S–1990–79 Filed 10–10–79; 9:58 am]

BILLING CODE 7555–01–M

13

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [44 FR 58037 October 9, 1979].

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, October 3, 1979.

CHANGES IN THE MEETING: Additional item.

The following additional item will be considered at a closed meeting scheduled for Thursday, October 11, 1979, at 2:30 p.m.

Regulatory matter bearing enforcement implications.

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required the above change 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.

October 10, 1979.

[S–1997–79 Filed 10–10–79; 12:58 pm]

BILLING CODE 8010–01–M

14

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of October 15, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Tuesday, October 16, 1979, at 10 a.m. A closed meeting will be held on Tuesday, October 16, 1979, immediately following the 10 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (8), (9)(i), and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karnel determined to hold the aforesaid meeting in closed session.

The subject matter of open meeting scheduled for Tuesday, October 16, 1979, at 10:00 a.m., will be:

1. Consideration of whether to comment to the Federal Reserve Board on its proposed amendments to Section 4(g) of Regulation T and to issuance of a no-action letter in connection therewith. For further information, please contact Nelson S. Kibler at (202) 272–2893.

2. Consideration of whether to adopt Securities Exchange Act Rule 15Bc7–1 to give the Municipal Securities Rulemaking Board limited access to information contained in copies of reports of compliance examinations of municipal securities brokers and dealers. For further information, please contact Marcia L. MacHarg, at (202) 272–2413.

3. Consideration of whether to institute rulemaking proceedings to amend the Annual Report by Mutual and Subsidiary Service Companies on Form U–13–60 ("Annual Report") and Rule 94 [17 CFR 250.94], promulgated pursuant to the Public Utility Holding Company Act of 1935, to make the Annual Report consistent with the System of Accounts and to (1) simplify the preparation of the Annual Report, (2) more clearly disclose financial, accounting, and operational information needed by federal and state authorities which regulate the affiliated public utility companies served by the service companies, and (3) facilitate the conduct of audit and account inspection programs. For further information, please contact Robert P. Wason at (202) 272–523–5159.

The subject matter of the closed meeting scheduled for Tuesday, October 16, 1979, immediately following the 10:00 a.m. open meeting, will be:

Formal Orders of investigation.
Other litigation matter.
Consideration of amicus participation.
Regulatory matter regarding financial institution.
Subpoena enforcement action.
Settlement of administrative proceeding of an enforcement nature.
Settlement of injunctive action and access to investigative files by Federal, State, or Self-Regulatory Authorities.
Settlement of injunctive action and Institution and Settlement of administrative proceeding of an enforcement action.
Report of investigation.
Chapter X proceeding.
Institution of administrative proceeding of an enforcement nature.
Opinion.

At times changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: John Ketels at (202) 272–2091.

October 10, 1979.

[S–2001–79 Filed 10–10–79; 3:33 pm]

BILLING CODE 8010–01–M

federal register

Friday
October 12, 1979

Part II

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Demonstration Project Procedures

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 282

[Amdt. No. 153]

Demonstration, Research, and Evaluation Projects; Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rules and notice of intent.

SUMMARY: This rulemaking establishes procedures for conducting a demonstration project authorized under Subsection 17(b)(1) of the Food Stamp Act of 1977, involving the payment of dollar amounts, equal in value to food stamp allotments, rather than coupons to each eligible household in which every member is either 65 years of age or over or has been determined eligible to receive Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act. The project is, hereafter, referred to as the SSI/Elderly Cash-Out project. The project will test program changes designed to increase the participation of and improve program service to eligible aged, blind and otherwise handicapped households.

The Notice of Intent announces the Department of Agriculture's intention to conduct the project and solicits applications from State welfare agencies wishing to participate in the project.

DATES: State agencies desiring participation in the project shall pre-apply, as detailed in the Notice of Intent, by November 15, 1979. Full proposals shall be due no later than December 17, 1979.

EFFECTIVE DATE: October 15, 1979.

FOR FURTHER INFORMATION CONTACT: Claire Lipsman, Director, Program Development Division, U.S. Department of Agriculture, Room 658, 500 12th Street, S.W., Washington, D.C. 20250, Telephone, (202) 447-8325.

SUPPLEMENTAL INFORMATION: Subsection 17(b)(1) of the Food Stamp Act of 1977, authorizes the Department of Agriculture to conduct various demonstration projects to test program changes that might improve the delivery of food stamp benefits to eligible households and increase the efficiency of the Food Stamp Program. The provision contains a specific authority for a project whereby persons 65 years of age or over or eligible for SSI payments are paid Food Stamp Program benefits in cash rather than food stamps. This project responds to the concern of Congress, the Department, State and local program administrators, and community groups over the low participation of the aged, blind, and handicapped in the Food Stamp Program. The House Committee on Agriculture Report on the Food Stamp Act of 1977, House Report No. 95-464, 95th Congress, 1st Session (p. 97-101) notes that the current level of participation for these households is between 40 and 50 percent of the total number estimated eligible to participate in the Program. The Committee Report also indicates that this low level of participation is believed to be the result of restrictive participation "barriers" which include, but are not limited to: application procedures which are not tailored to the needs of elderly and disabled persons, the lack of transportation, and the "humiliation" or "welfare stigma" many of the subject households experience when applying for and using food stamps. Operation of the SSI/Elderly Cash-Out project will test whether providing cash benefits rather than food stamps will resolve these problems and thus facilitate the participation of the target population.

In addition to examining the effect that providing an alternate form of assistance will have on participation, the project will also test whether participation will be improved if aged and handicapped households are processed for the Program at other than a welfare or food stamp office. To accomplish this, the operation at some demonstration sites will include the early implementation of a joint processing procedure, as discussed below, for the demonstration population.

Pursuant to Subsections 11(i)(2) and 11(j) of the 1977 Food Stamp Act, persons receiving or applying for Social Security or Supplemental Security Income (SSI) benefits are allowed, under certain circumstances, to file for food stamp benefits through the Social Security Office, with actual determinations on certifications and benefit levels made by the welfare or food stamp office. Regulatory procedures for accomplishing this joint processing are currently being developed by the Department, in conjunction with the Department of Health, Education and Welfare (DHEW). These procedures will include the outstationing of State agency personnel at the Social Security Office.

During the course of this project, eligible SSI and aged households will apply for participation and be certified in accordance with all standard program rules, except where otherwise specifically provided. Households certified eligible to participate shall receive on a monthly basis a State or local agency issued check equal in value to the coupon allotment they would otherwise receive.

A thorough evaluation will be made of the effect of the cash-out procedure on the involved households. Participation growth rates and costs incurred as a result of administering the test procedure will be principal factors in assessing the feasibility of implementing food stamp cash benefits for the aged, blind and handicapped nationwide.

The project is scheduled to begin on or about April 1, 1980, and will operate for one year. The project will be conducted at eight demonstration project sites. Selected sites will reflect a rural/urban distribution and may be selected on a State-wide or local project area basis or, as in the case of a rural site, consist of several contiguous rural counties in a State to accommodate a target population large enough for analysis purposes. States which provide or are expected to provide cash-out service pursuant to Pub. L. 93-233 (42 U.S.C. 1382(e)), as amended, during the period of operation of this demonstration are not eligible as project sites. A listing of the sites selected for project operation will be subsequently published in the **Federal Register.**

Accordingly, 7 CFR Part 282 is amended as follows: a new § 282.12 is added to read:

§ 282.12 SSI/Elderly Cash-Out Demonstration Project.

(a) *Purpose.* These regulations establish the procedures under which the demonstration project, hereafter referred to as the SSI/Elderly Cash-Out project, will operate. Under this project, eligible households all of whose members are either age 65 or older or have been determined eligible to receive Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act shall be provided a check equal to the value of the food stamp allotment they would otherwise receive. The purpose of the SSI/Elderly Cash-Out Project is to test the feasibility of providing cash in lieu of food coupons to elderly and handicapped persons as a means of improving the program participation of and service to these households.

(b) *Statutory requirements to be waived.* Subsection 17(b)(1) of the Food Stamp Act of 1977 authorizes the Secretary to waive any requirement of the Act to the degree necessary to conduct the demonstration project as long as the project does not lower or further restrict the income or resource

standards or benefit levels of project participants. Under the SSI/Elderly Cash-Out project, the definition of a food stamp allotment (Subsection 3(a)) shall be waived. The limitations specified in Section 16 on Federal cost-sharing of administrative expenses is also waived. Other requirements may be waived as the Secretary deems necessary consistent with the limitations on the waiver authority provided in Subsection 17(b)(1). Any such waiver will be published in the Federal Register.

(c) *Regulatory requirements.* All current Food Stamp Program regulations (7 CFR Part 270 et seq.), except as specifically provided and except where inconsistent with any rules governing this project, shall govern the operation of this project.

(d) *Definitions.* For the purposes of this demonstration project:

(1) "Allotment" means the value of the cash payment, in the form of a check, a household is certified eligible to receive during each month;

(2) "Household" means (i) Individuals living alone who are 65 years of age or older or have been determined eligible to receive Supplemental Security Income benefits under Title XVI of the Social Security Act;

(ii) Individuals living together all of whom are 65 years of age or older or have been determined eligible to receive Supplemental Security Income benefits under Title XVI of the Social Security Act.

(e) *Areas of operation.* The SSI/Elderly Cash-Out project will be conducted in eight project sites. The selection of States and localities will be made by the Department based on the applications submitted by State welfare agencies wishing to participate in the project.

(f) *Household participation.* (1) All certified eligible households, as defined in § 282.12(d)(2), residing in the demonstration project sites shall receive a check representing the value of their benefit entitlement.

(2) The State agency shall provide those SSI and elderly households currently participating in the Program with a notice in accordance with established program procedures, prior to project inauguration, informing them that during the course of the project they will receive their food stamp benefits in the form of a check instead of coupons.

(3) Nonelderly households with SSI eligibility pending at the time of initial application for food stamp benefits shall be provided coupons instead of cash until such time as the food stamp office adjusts their allotment to reflect the initial receipt of SSI benefits. Nonelderly households participating in the SSI Program which terminate SSI participation during the course of the project shall receive any subsequent food stamp benefits in coupons.

(g) *Certification of households.* Households applying for program benefits under the demonstration project shall be processed and certified by the State agency in accordance with all appropriate Food Stamp Program provisions. The project shall involve two methods of processing households for program participation.

(1) At some demonstration sites, SSI and elderly households will be processed for participation in the Program through the Social Security Office. Procedures shall be developed, pursuant to guidelines addressing Subsection 11(i)(2) and 11(j) of the 1977 Food Stamp Act, to process such households by means of outstationing State agency staff in Social Security Offices. Non-SSI elderly households at these sites will have the option of applying for participation at the Social Security Office or the Welfare Office.

(2) The other demonstration sites will process elderly and SSI households at the welfare or food stamp office for the duration of the one year demonstration period.

(h) *Delivery of benefits.* Project participants shall be provided with program benefits by the State or local agency in the form of a check in accordance with the benefit delivery standards and, where appropriate, expedited service standards afforded all other food stamp program participants. The time frame for processing emergency applications filed through the Social Security Office shall begin when the application reaches the food stamp worker (outstationed) or office.

(i) *Certification periods.* (1) The State agency may certify SSI and elderly households for project participation for the duration of the project, if appropriate, based on household circumstances. Certification periods may be extended beyond the duration of the project if household circumstances permit. However, such households shall be informed that program benefits will be received in the form of stamps rather than a check subsequent to project termination.

(2) In the month prior to the last month of project operation, the State agency shall notify SSI and elderly project participants of the termination of the project, and if appropriate, shall provide a notice of the expiration of their certification period.

(j) *Issuance of benefits.* The State agency shall identify each household certified as eligible to receive a food stamp check.

(1) Checks shall be prepared and issued based on the benefit entitlement of each project participant. Check mailings shall be conducted in accordance with procedures established for the mail issuance of allotments, or procedures used by the State agency for the delivery of public assistance checks.

(2) *Replacement issuances.* If mail delivery of checks is used, the State agency shall provide project participants whose checks are lost or stolen in the mail with an opportunity to receive a replacement check. Check replacements shall be conducted in accordance with regulatory procedures governing coupons lost in the mail. Controls shall be applied to safeguard against repeated replacements in individual cases and corrective action taken after two consecutive reports of nondelivery.

(k) *Funding.* Funding shall be provided through the State agency Food Stamp Program Letter of Credit for both administrative and program costs.

(1) *Program costs.* For each State agency participating in the demonstration project, FNS will provide funds through the State agency's established Letter of Credit to be used for the purpose of issuing food stamp benefits to eligible project participants. State agency drawdowns and accounting for such funds shall be subject to the requirements in Part 277.

(2) *Administrative costs.* FNS will pay an amount equal to 100 percent of approved administrative costs, over and above such costs as are usual and customary to Food Stamp Program operations. These costs will include, but not be limited to, increased outreach, training, and ADP costs. Budgets must be submitted and approved by FNS, and records available to substantiate that such costs are a direct result of the demonstration project in order for such additional costs to be eligible for 100 percent funding.

(l) *Records and reports.* (1) The State agency shall maintain all records related to project operation for a period of three years from the date of submission of the final project expenditure report, or longer if required in writing by FNS. Such records shall be available to FNS or its designee upon request.

(2) In addition to all other program reporting requirements, the State agency shall submit to FNS:

(1) A separate monthly FNS 256 Form (Monthly Report of Participation and Coupon Issuance) to report:

(i) The total number of households and persons participating in the project who are aged only;

(ii) The total number of households and persons who are SSI aged only;

(iii) The total number of households and persons who are SSI blind and disabled only;

(iv) The total value of initial check issuances; and

(v) The average monthly benefit for each category of households described above.

(2) A separate FNS 259 Form (Food Stamp Mail Issuance Report) to report, on a quarterly basis, monthly totals on the number and value of replacement issuances, if checks are issued by mail;

(3) Reports on the status of project operations as established in the grant agreement governing project operations; and

(4) A separate SF 269 Food Stamp Form (Financial Status Report) on a quarterly basis, reporting total project expenditures for both administrative costs and program benefits.

(m) *Monitoring and evaluation.* FNS will establish procedures for monitoring State agency compliance with the requirements of § 282.12. The evaluation of the project will be conducted by an independent contractor. The State agency shall, upon reasonable notification, provide the evaluation contractor with access to all information pertaining to project operations.

Appendix—Notice of Intent

The Secretary of Agriculture announces his intention to conduct a demonstration project involving the cash payment (in the form of a check) of the value of the food stamp allotment to eligible households in which all members are either 65 years of age or older, or have been determined eligible to receive Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act. This demonstration project, called the SSI/Elderly Cash-Out project, is authorized under Subsection 17(b)(1) of the Food Stamp Act of 1977 (Pub. L. 95–113). Households eligible to participate in the project shall apply at their local welfare office and be certified for food stamp assistance under standard program procedures and rules, and shall be issued their benefit entitlement in the form of a check rather than coupons. In addition, at some demonstration sites, SSI households will be processed for participation under the project through the Social Security Office. Under the latter procedure, SSI households desiring food stamp program assistance shall apply at the Social Security Office. Certification and benefit level determinations, however, shall be performed by the food stamp certification office. Non-SSI elderly households at these sites, shall have the option of applying through the Social Security or Welfare Office.

The SSI/Elderly Cash-Out project will be conducted in eight demonstration project sites, and will be operational for a period of one year. Project operations are scheduled to begin on or about April 1, 1980. The Department will evaluate the effectiveness of the cash-out procedure in improving program service to an the participation of the target population, and will examine the costs of the administrative procedures used. A contractor may be used for such an evaluation. An examination will also be made of the attitudes of the project population toward the Program as a result of receiving cash rather than coupons; the socio-economic and demographic characteristics of the involved caseload; and the impact of cash benefits on the nutritional intake of project participants. The evaluation shall make use of participation data, program and administrative cost data, client questionnaires and casefile reviews. The results of the evaluation will be forwarded to Congress for their consideration.

This Notice further solicits applications from State Welfare agencies wishing to take part in the project. Operational proposals may be made on a statewide basis or for a selected project area. Such proposals shall describe in detail how the State welfare agency intends to fulfill the requirements of the project which are discussed in detail below.

A. *Basic Operational Requirements.* 1. Households in which all members are either 65 years of age or older, or have been determined eligible to receive SSI benefits, which apply for food stamp benefits and are subsequently determined eligible for program project participation shall be provided with a monthly check representing the value of their food stamp allotment.

2. State agencies shall conduct outreach efforts, as developed by FNS, to ensure that potential participahts are informed of the project and encouraged to participate.

3. Elderly and SSI households shall be certified in accordance with current Food Stamp Program procedures. SSI households at some sites will be processed for the Program through the Social Security Office. At these sites procedures will also be developed by means of outstationing State agency staff, to allow non-SSI elderly households to apply at the Social Security Office.

4. Eligible households will receive program benefits in the form of a State or local agency issued check in accordance with the standards for benefit delivery established for current program operations, including expedited service requirements, as appropriate.

5. In those States issuing checks by mail, checks reported as lost or stolen from the mails shall be replaced in accordance with the procedures established for coupons issued through the mail.

B. *State Agency Responsibilities.* The State agency shall be responsible for:

1. Implementing an outreach program to publicize the SSI/Elderly Cash-Out project. (Required techniques to be used shall be developed by FNS.);

2. Certifying elderly and SSI households for participation under current program procedures;

3. Notifying all current food stamp SSI and elderly households, prior to project inauguration, in accordance with established program rules for such procedures, or such operational guidelines as may be established for this project, that during the demonstration project, they will receive their program benefits in the form of a check rather than coupons;

4. Maintaining a separate or readily accessable file of records which identify all households certified to receive food stamp cash benefits. Such records shall contain, at a minimum, the case number, name, address, household size and benefit entitlement for each household and shall be updated, as appropriate, to reflect changes in household eligibility and benefit entitlement. The State agency shall also maintain records on any households participating in the project who, for any reason, become nonparticipants. The reason for such nonparticipation shall be documented, if available. All such records will be available to FNS or its agent, upon reasonable notification;

5. Ensuring the preparation and issuance of checks based on each eligible household's benefit entitlement;

6. Ensuring that expedited issuance, in the form of a check, is provided to households who qualify for this service in accordance with procedures established for such issuance;

7. Withdrawing an amount to cover benefit checks from the Food Stamp Program Letter of Credit (LOC). Drawdowns shall be governed by the LOC requirements established in 7 CFR Part 277. Procedures will be established to minimize the time lapse between the drawing of Federal funds and their expenditure;

8. Minimizing the possibility of check loss by issuing checks in accordance with the procedures established for the mail issuance of coupons, or in accordance with State agency procedures for the delivery of public assistance checks;

9. In those States where checks are issued through the mail, providing participants, whose checks are lost or stolen from the mail, an opportunity to obtain a replacement check. Replacement procedures shall be conducted in accordance with the program standards established for coupons issued by mail. Safeguards shall be established to avoid repeated instances of replacement in individual cases and corrective action undertaken after two consecutive reports of nondelivery;

10. Planning and performing all functions necessary to ensure that only certified households receive program benefits;

11. Establishing procedures to avoid the duplicate issuance of food stamp checks;

12. Training caseworkers and other staff concerning all aspects of the project;

13. Notifying project participants of the termination of the project and their certifications if appropriate, according to current program rules, in the month prior to the last month of project operations;

14. Cooperating with all evaluation activities connected with the demonstration project under the sponsorship of the Department;

15. Taking such action as is necessary to identify and report separately in the Quality Control error rate computations, those errors attributable solely to the demonstration project requirements, i.e., intake through Social Security Offices and payment by check rather than coupons.

16. Preparing and submitting to FNS the following reports on the financial status of project operations:

(a) Quarterly Status Report: A separate SF 269 Food Stamp Form (Financial Status Report) shall be used to report expenditures for both administrative costs and program costs. Administrative costs shall only include those costs incurred in addition to normal Food Stamp Program costs and shall include, but not be limited to, additional outreach, training and ADP costs. This report is due 30 days following the end of the Federal fiscal year quarter being reported;

(b) Final Report: A final SF 269 Food Stamp Form (Financial Status Report) shall be submitted 120 days following the end of the project period. This final report will also be the final quarterly report;

17. Preparing and submitting to FNS reports on project participation and benefit issuances for each project area participating in the demonstration project as follows:

(a) A separate FNS 256 Form (Monthly Report of Participation and Coupon Issuance) to report, on a monthly basis, the total number of households and persons participating for aged only, SSI aged, and SSI blind and disabled, the total value of monthly benefits issued, and the average monthly benefit for each group of households indicated above;

(b) For each project area participating in the demonstration project, if checks are issued by mail, a separate FNS 259 Form (Food Stamp Mail Issuance Report) to report, on a quarterly basis, monthly totals on the number and value of replacement issuances;

18. Maintaining all records pertaining to the project for a period of three years from the date of submission of the final project expenditure report, or longer if required in writing by FNS. All records shall be available to FNS or its representatives upon request;

19. Obtaining documented approval for the project from all appropriate State and local officials;

20. Obtaining documentation of cooperative agreements from other agencies or organizations necessary to the operation of the project. Sponsors shall provide written concurrence by the Social Security Administration Regional Office with the participation of the Social Security District Office in processing SSI and elderly households for the Program;

21. Developing and executing the demonstration project;

22. Assuming legal and financial responsibility for the accuracy of the list of households certified for project participation; and

23. Safeguarding and maintaining the integrity of demonstration project funds used under the State agency's Letter of Credit.

C. *Federal Responsibilities.* 1. FNS will develop required outreach techniques to be used in publicizing the demonstration project.

2. FNS will provide funding through the State agency's established Food Stamp Program Letter of Credit based on the budget estimate submitted by the State agency.

3. FNS shall be responsible for evaluating the demonstration project; this may be accomplished through use of a contractor.

4. FNS will provide whatever training and technical assistance is necessary during the project, including financial management assistance for project funds.

5. FNS will monitor project operations.

6. FNS will prepare reports consolidating data from all demonstration project sites.

D. *Federal Financial Participation.* FNS shall pay 100 percent of those approved administrative costs associated with the demonstration project which are identified as over and above such costs as are usual or customary to normal Food Stamp Program operations. FNS shall also provide 100 percent of program benefits to certified eligible participants.

(a) To be eligible for 100 percent funding as specified above administrative costs must be specifically identifiable with the project. For example, outreach costs may be eligible for 100 percent funding only if records are maintained which identify such costs as directly attributable to demonstration project operations.

(b) Funding shall be provided through the State agency Program Letter of Credit for both administrative and program costs.

(c) FNS shall assume the cost for any data compilations which are separate and in addition to those recordkeeping requirements necessary for project operation and which are performed by the State agency at the request of the evaluation contractor.

E. *Applications.* 1. *Preliminary application.* State welfare agencies wishing to take part in the demonstration project shall make initial application by submitting a Letter of Intent. The Letter of Intent shall be submitted to the Deputy Administrator, Family Nutrition Programs, Food and Nutrition Service, 500 12th Street, S.W., Washington, D.C. 20250. Such letters shall be due by November 15, 1979. The letters shall contain the following information:

(a) A description of the Food Stamp project area or areas in which the demonstration project shall be carried out. This description shall include an estimate of the number of elderly and SSI households potentially eligible to participate in the Food Stamp Program; the current participation rate of the target population in the Food Stamp Program (or an estimate if exact numbers are not available) and any other information useful for understanding the nature of the food stamp project areas in which the demonstration project would be conducted, including, with respect to operating boundaries, the location of the food stamp project area(s) in relation to that of the Social Security Office in a potential demonstration site;

(b) A brief indication of past and current outreach techniques used in the project area or areas in which the demonstration project would operate;

(c) An expression of preference regarding a cooperative effort in conducting the test procedure through the Social Security Office as distinct from welfare or food stamp offices.

2. *Full application.* To complete the application process, State agencies shall submit the Application for Federal Assistance—Short Form, prescribed by the Office of Management and Budget (OMB) Circular A–102. Applications can be obtained from and shall be submitted in one original and two copies to the Deputy Administrator for Family Nutrition Programs. Applications must be received at the address noted above no later than December 17, 1979. All applications shall be submitted in accordance with all appropriate requirements as established under OMB Circular A–95 and must be signed by the representative of the State agency with the authority to commit the agency to the project.

In addition to the specific information on how the State agency will meet the basic requirements for project operations detailed in Section A and B above, the application narrative shall contain the following:

(a) A detailed description of the work plan with the task statements, milestones, and the methodology to be used in completing the tasks. (The work plan must be designed to facilitate implementation of the project not later than April 1, 1980. Any subsequent revisions or modifications of the plan must be approved by FNS);

(b) A proposed budget for both project program and administrative costs.

(1) A budget for administrative costs to be funded at 100 percent Federal Financial Participation (FFP) including each category used on the SF–269 (Food Stamp) form, if applicable;

(2) A budget for program costs with the projected caseload and other information used to arrive at this figure. Revisions to this proposed budget may be submitted to FNS as necessary or appropriate to provide for timely reimbursement. However, final revisions to program budget outlays must be submitted no later than 120 days after project termination to be accepted by FNS for approval;

(c) A description of the number and qualifications of key staff, including a project director, which will be used in accomplishing the purpose of the project, plus the percent of time to be allotted by the staff;

(d) A full description of any plan to use a contractor or subcontractor to carry out any part of the project, including, the scope of work, tasks, estimated costs for each task, and estimated personnel required;

(e) Documentation to substantiate arrangements made with other public or private agencies or organizations whose support and cooperation could be necessary to project operations.

F. *Selection of Sites.* 1. *Federal procedures.* (a) All State agencies applying as demonstration project sponsors will be reviewed by a panel consisting of FNS and other Departmental representatives, and representatives of other agencies, as appropriate. Final approval of joint processing sites shall be subject to joint FNS/SSA agreement. (b) Applications will be ranked based on the criteria established in (2) below.

2. *Criteria for selection.* (a) Conceptual development and clarity of procedures and operation design; (b) Consistency of work plan in relation to the provisions for the project as contained within the regulations and this Notice; (c) The adequacy of the work plan; (d) The capability of the applicants to conduct the project based on:

(1) A description of the qualifications of staff;

(2) Availability of necessary facilities, staff, and other resources;

(3) Availability of documentation establishing a cooperative effort between the potential sponsor and any necessary supporting agencies or organizations;

(4) Administrative and supervisory capacity;

(e) The current participation level of the target population within the project area; and

(f) Geographical dispersion, including consideration of:

(1) An area with population sufficiently large to produce an adequate eligible target population for evaluation purposes (for example, it would be desirable to have a minimum of 200 food stamp participants in the project and at least 400 persons in the target population estimated to be eligible for food stamps but not currently participating).

(2) A mix of geographical and administrative structures throughout the seven FNS administrative regions.

3. *Selection.* USDA will notify all applicants of those Sites selected for demonstration project operations.

(91 Stat. 950, as amended (7 U.S.C. 2011–2027).)

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

The demonstration project departs significantly from normal program procedures only insofar as it provides for benefits to be received in the form of cash rather than coupons. 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 impractical and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant" and is being published in accordance with the emergency procedure in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Bob Greenstein, Administrator for Food and Nutrition Services, that the emergency nature of this final rule warrants publication without opportunity for public comment at this time.

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

Note.—Approval of the Office of Management and Budget has been requested for the reporting and/or recordkeeping requirements contained herein in accordance with the Federal Reports Act of 1942.

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

Dated: October 4, 1979.

Carol Tucker Foreman,

Assistant Secretary of Agriculture.

[FR Doc. 79-31258 Filed 10-11-79; 8:45 am]

BILLING CODE 3410-30-M

federal register

Friday
October 12, 1979

Part III

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 224–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

Arkansas	AR79–4091
Maryland	MD79–3034
	MD79–3035
New Jersey	NJ79–3033
	NJ79–3041
New York	NY79–3032

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona:	
AZ79–5100	Feb. 9,1979
AZ79–5104	Mar. 9, 1979
Colorado:	
CO79–5116	May 18, 1979
CO79–5118; CO79–5119	June 15, 1979
Delaware—DE78–3080	Nov. 3, 1978
Florida:	
FL79–1064	Apr. 13, 1979
FL79–1094	June 8, 1979
Mississippi—MS79–1119	Aug. 17, 1979
Nevada—NV79–5107	Mar. 9, 1979
New Jersey:	
NJ78–3047	June 16, 1978
NJ79–3013	June 22, 1979
North Carolina—NC78–1061	July 7, 1978
North Dakota:	
ND78–5125	Sept. 22, 1978
ND79–5128	Aug. 3, 1979

Cancellation of General Wage Determination Decisions.

The general wage decisions listed below are cancelled. Agencies with construction projects pending to which one of the cancelled decisions would have been applicable should utilize the project determination procedure by submitting form SF–308. See Regulations Part 1 (29 CFR), Section 1.5. Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.7(b)(2), the incorporation of one of the cancelled decisions in contract specifications, the opening of bids for which is within ten (10) days of this notice, need not be affected.

IN77–2027—Parke County, Indiana—Residential Construction.
IN77–2028—Vermillion County, Indiana—Residential Construction.

Signed at Washington, D.C. this 5th Day of October 1979.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510–27–M

NEW DECISION

STATE: Arkansas COUNTY: Pulaski
DECISION NO. AR79-4091 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Projects consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning Mechanic	$5.05				
Bricklayers	8.00				
Carpenters	6.00				
Cement Masons	6.19				
Electricians	7.27				
Glaziers	6.71				
Ironworkers	6.88				
LABORERS:					
Laborers, Common	3.96				
Mason Tenders	4.69				
Painters, brush	6.95				
Plumbers and Pipefitters	7.75				
Roofers	6.05				
Sheet Metal Workers	5.02				
Sheet Rock Hangers and Finishers	6.00				
Tile Setters	8.25				
Truck Drivers	4.02				
POWER EQUIPMENT OPERATORS:					
Asphalt Raker	4.00				
Backhoe	5.98				
Blade Grader	5.00				
Bulldozer	6.50				
Fork Lift	4.40				
Roller	5.14				
Tractor	5.97				
WELDERS -- receive rate prescribed for craft performing operation to which welding is incidental.					
"Unlisted classifications needed for work not included within the scope of the classification listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(ii))."					

NEW DECISION

STATE: MARYLAND COUNTIES: SOMERSET, WICOMICO, AND WORCESTER
DECISION NO.: MD79-3034 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 9.80		.20		
CARPENTERS	7.70				
CEMENT MASONS	8.18				
ELECTRICIANS	8.95	.60	3%+.60		½%
GLAZIERS	5.75				
IRONWORKERS	5.90				
LABORERS:					
Laborers	4.11				
Mason Tenders	5.10				
PAINTERS	6.50				
PLASTERERS	6.94				
PLUMBERS & PIPEFITTERS	9.00				
ROOFERS	6.26				
SHEET METAL WORKERS	6.00				
SPRINKLER FITTERS	5.84				
SOFT FLOOR LAYERS	11.33				
TERRAZZO & TILE SETTERS	9.00				
TERRAZZO & TILE FINISHERS	7.41				
TRUCK DRIVERS	5.12				
POWER EQUIPMENT OPERATORS:	5.00				
Asphalt Spreader	6.00				
Backhoe	5.08				
Bulldozer	5.30				
Crane	7.20				
Front End Loader	5.30				
Grader	5.35				
Paver	5.80				
Scraper	6.00				
Roller	5.75				
"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(ii))."					

NEW DECISION

STATE: MARYLAND

COUNTIES: CAROLINE, DORCHESTER, KENT, QUEEN ANNES AND TALBOT

DECISION NO.: MD79-3035

Date: DATE OF PUBLICATION

DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	9.80		.20		
CARPENTERS	6.45				
CEMENT MASONS	6.00				
ELECTRICIANS	8.17				
GLAZIERS	5.75				
IRONWORKERS	7.00				
LABORERS:					
Laborers	4.20				
Mason Tenders	5.10				
Plasterers Tenders	4.87				
LATHERS	8.33				
PAINTERS	4.41				
PLASTERERS	9.00				
PLUMBERS & PIPEFITTERS	5.50				
ROOFERS	6.00				
SHEET METAL WORKERS	6.00				
SOFT FLOOR LAYERS	7.00				
TILE SETTERS	6.35				
TRUCK DRIVERS	3.55				
POWER EQUIPMENT OPERATORS:					
Backhoe	5.88				
Bulldozer	5.63				
Gradall	5.75				
Grader	5.00				
Paver	5.50				
Roller	4.39				
"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(ii))."					

NEW DECISION

STATE: NEW JERSEY

COUNTY: GLOUCESTER

DECISION NO.: NJ79-3033

DATE: DATE OF PUBLICATION

DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING AND HEATING MECHANIC	$ 8.00				
BRICKLAYERS	10.50				
CARPENTERS	7.11				
CEMENT MASONS	6.50				
DRYWALL FINISHERS	8.75				
ELECTRICIANS	6.09				
INSULATION MECHANICS	5.84				
LABORERS	4.33				
PAINTERS	5.50				
PLUMBERS & PIPEFITTERS	6.50				
SHEET ROCK HANGERS	9.34				
SOFT FLOOR LAYERS	7.48				
TILE SETTERS	6.30				
TRUCK DRIVERS	5.25				
POWER EQUIPMENT OPERATORS:					
Backhoe	6.86				
Bulldozer	6.43				
Front End Loaders	6.50				
"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(ii))."					

NEW DECISION

STATE: NEW JERSEY COUNTY: OCEAN
DECISION NO.: NJ79-3041 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: Residential Construction Projects Consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 8.00				
CARPENTERS	6.52				
CEMENT MASONS	7.34				
ELECTRICIANS	5.24				
INSULATION MECHANICS	6.69				
LABORERS:					
Laborers	4.66				
Mason Tenders	4.71				
PLUMBERS & PIPEFITTERS	10.00				
ROOFERS	9.38				
SHEET METAL WORKERS	6.28				
SHEET ROCK HANGERS	5.25				
SHEET ROCK TAPERS	5.25				
SOFT FLOOR LAYERS	6.00				
TILE SETTERS	5.00				
TRUCK DRIVERS	5.00				
POWER EQUIPMENT OPERATORS:					
Backhoe	6.31				
Bulldozer	6.00				
Crane	6.25				
Front End Loader	5.80	.48		.12	
Pan	6.00	.48		.12	
"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(ii))."					

NEW DECISION

STATE: NEW YORK COUNTY: CHEMUNG
DECISION NO.: NY79-3032 DATE: DATE OF PUBLICATION
DESCRIPTION OF WORK: Building Construction (does not include single family homes and apartments up to and including 4 stories), Heavy, and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.78	.90	.43		.06
BOILERMAKERS	12.80	1.10	1.55		.03
BRICKLAYERS, CEMENT MASONS, MARBLE SETTERS, PLASTERERS, STONE MASONS, TERRAZZO WORKERS AND TILE SETTERS:					
All commercial work $1,000,000 and under	9.39	.60	.50		
All commercial work over $1,000,000	10.45	.60	.50		
CARPENTERS:					
All the area west of a straight line from the intersection of Southport Twp. line and Clark Hollow Road to Route 17E to Winter Street, Big Flats, then in a straight line north to the Schuyler County line:					
Carpenters	9.51	.40	1.00		.02
Millwrights and Piledriver	9.76	.40	1.00		.02
Heavy and Highway	9.54	.40	1.13	a	.025
Remainder of County:					
Work over $1,000,000:					
Carpenters	10.52	.35	.50		.04
Millwrights and Piledrivers	10.77	.35	.50		.04
Work $1,000,000 and under:					
Carpenters	9.25	.35	.50		.04
Millwrights and Piledrivers	9.50	.35	.50		.04
Heavy and Highway	10.78	.45	.60	a	.045
CEMENT MASONS, (HEAVY & HIGHWAY)	10.60	.60	.50		
ELECTRICIANS	12.70	1.00	3%+.75	b	.05
ELEVATOR CONSTRUCTORS	9.96	.745	.56	c+d	.025
ELEVATOR CONSTRUCTORS' HELPERS	6.97	.745	.56	c+d	.025
ELEVATOR CONSTRUCTORS' HELPERS PROBATIONARY	4.98				

DECISION NO. NY79-3032

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS	8.96	.35	.50		.03
IRONWORKERS: Structural, Reinforcing, Ornamental, Machinery Mover, Rigger, Rodmen, Fence Erector, and Stone Derrickmen	10.98	.85	1.05		.05
LABORERS, (BUILDING): Laborers	7.97	.45	.30		
LATHERS	10.28		.20		.01
LEAD BURNERS	10.75	.40	.25	e	.01
PAINTERS: Brush	8.01	.35	.30		
Paper & Vinyl Hangers	8.36	.35	.30		
Power Grinder with Respirator, Swing Scaffold, Swing Chair	8.51	.35	.30		
Boatswain Chair & Toothpick Staging over 25', Structural Scaffold over 39'	8.26	.35	.30		
Spray, Bridges	8.86	.35	.30		
Epoxy - Brush or Roll	8.56	.35	.30		
Spray Epoxy, Bridges - Main Road and Highway	9.26	.35	.30		
Steamcleaning, Sandblasting Acid or Hi pressure water	8.71	.35	.30		
Steeple Jack over 100' & Structural Steel	9.01	.35	.30		
PLUMBERS AND STEAMFITTERS	10.40	.60	.85		.10
ROOFERS	10.19	.84	1.00		
SHEET METAL WORKERS	9.89	3%+.60	.80		.07
SPRINKLER FITTERS	13.29	.75	1.05		.08
TRUCK DRIVERS, BUILDING	7.50	f	.30	g	
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. NY79-3032

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day
E- Thanksgiving Day and F-Christmas Day

FOOTNOTES:

a. Holidays: Independence Day and Labor Day

b. Employee shall work 4 hours and receive 8 hours pay on Christmas Eve.

c. Holidays: A through F.

d. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

e. Holidays: A through F; Washington's Birthday, Good Friday, X-mas Eve, providing employee has worked 30 full days during the 90 calendar days prior to the holidays, and the regular schedule work day immediately preceeding and following the holidays.

f. Employer contributes $3.40 per day to Health and Welfare.

g. Holidays: A through F.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))."

DECISION NO. NY79-3032	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: HEAVY AND HIGHWAY CONSTRUCTION					
CLASS A	9.19	.55	.50	a	
CLASS B	9.39	.55	.50	a	
CLASS C	9.59	.55	.50	a	
CLASS D	9.79	.55	.50	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS A
Laborers, drill helpers, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin concrete bootman, gin buggy, hand or machine vibrator, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

DECISION NO. NY79-3032	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
Electricial Overhead and Underground Distribution Work:					
Lineman and Techanicians	10.50	1.00	3%+.75	a	3½%
Cable Splicers	13.70	1.00	3%+.75	a	3½%
Groundman Digging Machine Operator and Groundman Dynamiteman	9.45	1.00	3%+.75	a	3½%
Groundman Mobile Equipment Operator, Mechanic 1st Class, groundman Truck Driver (tractor trailer units)	8.40	1.00	3%+.75	a	3½%
Groundman Truck Driver, Driver-Mechanic, Groundman	7.825	1.00	3%+.75	a	3½%
All Overhead Transmission Line Work and Lighting For Athletic Fields:					
Lineman and Technicians	11.85	1.00	3%+.75	a	3½%
Groundman Digging Machine Operator, Groundman Dynamiteman	10.665	1.00	3%+.75	a	3½%
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor Trailer unit)	9.48	1.00	3%+.75	a	3½%
Groundman Truck Driver, Driver-Mechanic, Groundman (experienced)	8.8875	1.00	3%+.75	a	3½%
All Pipe Type Cable Installation:					
Lineman and Groundman Equipment Operator	12.45	1.00	3%+.75	a	3½%
Cable Splicer	13.695	1.00	3%+.75	a	3½%
Groundman Truck Driver Groundman (experienced)	9.3375	1.00	3%+.75	a	3½%
Sub-station, Switching Structures (when not part of the line), Traffic					

DECISION NO. NY79-3032

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (CONT'D):					
Signals, Street Lighting and Electrical, Telephone or CATV Commercial Work:					
Linemen and Technicians	12.45	1.00	3%+.75	a	3½%
Cable Splicers	13.695	1.00	3%+.75	a	3½%
Groundman Digging Machine Operator, Mechanic 1st Class, Groundman Truck Driver (tractor trailer unit)	9.96	1.00	3%+.75	a	3½%
Groundman Truck Driver, Driver-Mechanic, Groundman	9.3375	1.00	3%+.75	a	3½%
Groundman dynamiteman, groundman digging machine operator	11.205	1.00	3%+.75	a	3½%
Telephone and other Communication Systems, both overhead and underground:					
Linemen and Installer Repairmen	8.34	1.00	3%+.75	a	3½%
Splicers	8.89	1.00	3%+.75	a	3½%
Groundman Digging Machine Operator	7.73	1.00	3%+.75	a	3½%
Groundman	5.72	1.00	3%+.75	a	3½%
Groundman Truck Driver	6.82	1.00	3%+.75	a	3½%
Groundman Dynamiteman	6.60	1.00	3%+.75	a	3½%

Paid Holidays: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; F-Thanksgiving Day; F-Christmas Day.

FOOTNOTES

a. Paid Holidays: A through F, Washington Birthday, Good Friday, and Election Day for President of the United States and Governor of New York State, provided the employee works the day before and after the holiday.

DECISION NO. NY79-3032

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION					
GROUP I:					
I-A	11.81	1.05	1.15	a	.15
I-B	12.06	1.05	1.15	a	.15
I-C	12.31	1.05	1.15	a	.15
I-D	12.56	1.05	1.15	a	.15
I-E	13.06	1.05	1.15	a	.15
I-F	13.56	1.05	1.15	a	.15
I-G	14.06	1.05	1.15	a	.15
I-H	14.56	1.05	1.15	a	.15
GROUP II	11.81	1.05	1.15	a	.15
GROUP III	11.53	1.05	1.05	a	.15
GROUP IV	10.44	1.05	1.15	a	.15
GROUP V	8.75	1.05	1.15	a	.15
GROUP VI	12.36	1.05	1.15	a	.15

FOOTNOTES:

a. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day regardless of the day of the week in which the holiday may fall.

DECISION NO. NY79-3032

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION:

GROUP I - Cranes (cable and hydraulic climbing and tower)
I-A 121 ft. and under
I-B 121 ft. and 151 ft.
I-C 151 ft. and 201 ft.
I-D 201 ft. and 251 ft.
I-E 251 ft. and 301 ft.
I-F 301 ft. and 351 ft.
I-G 351 ft. and 401 ft.
I-H 401 ft. and 451 ft.

GROUP II - Air tugger, derrick, big generator plant, cableway, backhoe, clamshell, dragline, shovel and similar machines over 3/8 cubic yards capacity (factory rating), bridge crane (all types), caisson auger and similar type machine, forklift (with factory rating of 15 ft. or more of lift), hoist (on steel erection), mucking machines, ross carrier (and similar types), three drum hoist (when all three drums are in use)

GROUP III - A frame, backfilling machine, hoist (1 or 2 drums), barber green and similar type machine, maintenance engineer (mechanic), mechanical slurry machines (all kinds), belt crete and similar type machine, bituminous spreading machines, post hole digger, bulldozer, carry all type scraper, core drill, pumps, (regardless of motive power) no more than (4) in number not to exceed 20 inches in total capacity), fine grade and finish rollers, side boom tractor, stone crusher, compressors: 4 not to exceed 2000 cfm, concrete mixer, concrete placer, concrete pumps, tournadozer and similar types, crane hoe shovel 3/8 yds. capacity or less (factory rating), tournapull and similar types, dinky locomotives (all types), tower mobile and similar types, elevating grader, elevator trenching machines, fine grade machines (all kinds), welder, front end loader, forklift, with factory rating of less than 15 feet of lift, well drill, well point system, high pressure boiler.

GROUP IV - Any combination (not to exceed 3 pieces of equipment), welding, machine or mechanical conveyor (over 12 ft. in length), fireman, belt crete generator, mechanical heater, roller (fill & grade), pumps (regardless of motive power) no more than (3) in number, not to exceed twelve inches total capacity, rubber tired tractor, compressor 3 or less, not to exceed 1200 CFM combined capacity, longitudinal float.

GROUP V - Truck Crane

GROUP VI - Master Mechanic

DECISION NO. NY79-3032

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION					
GROUP I	11.58	1.05	.85	a	.15
GROUP II	11.19	1.05	.85	a	.15
GROUP III	10.11	1.05	.85	a	.15
GROUP IV	9.15	1.05	.85	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Paid Holidays: A through F, Providing the employee works the day before and the day after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION:

GROUP I - Automated concrete spreader (CMI), automatic fine grade, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), Cableway, caisson auger, central mix concrete plant (automated), Cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factory rated 15 ft.and over), front end loader 4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver, tractor drawn belt type loader, truck crane, tunnel shovel.

GROUP II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted), boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel

DECISION NO. NY79-3032

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION CONT'D:

GROUP II (CONT'D) - power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lbs. and over), hoist (one drum) Kolman plant loader and similar type loaders locomotive maintenance/engineer/greaseman/welder, mixer (for stablized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above sub-grade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

GROUP III - A-frame truck, compressors (4 not to exceed 2000 C.F.M. combined capacity or 3 or less with more than 1200 C.F.M. but not to exceed 2000 C.F.M.), compressors (any size but subject to other welding machines (4 of any type of combination), concrete pavement spreaders and finishers, conveyor, drill-core, drill-well, electric pumps used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift (under 15 ft.), gunite machine, hammers (hydraulic-self-propelled), post hole digger and post driver, power sweeper, roller (grade and fill), submersible electric pump (when used in lieu of well point system), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

GROUP IV - Aggregate plant, boiler (used in conjunction with production), cement and bin operator, compressors (3 or less not to exceed 1200 C.F.M. combined capacity), compressor (any size, but subject to other provisions for compressors) dust collectors, generator pumps, welding machines (3 or less of any type or combination), concrete paver or mixer (16S and under), concrete saw (self-propelled), fireman, form tamper, hydraulic pump (jacking system), lightling plants, mulching machine, oiler parapet-(concrete or pavement grinder), power broom (towed), power heaterman, revinius widener, shell winder, steam cleaner, tractor.

DECISION NO. NY79-3032

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION					
CLASS 1	9.13	1.01	.75	a	
CLASS 2	9.18	1.01	.75	a	
CLASS 3	9.23	1.01	.75	a	
CLASS 4	9.38	1.01	.75	a	
CLASS 5	9.53	1.01	.75	a	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION:

CLASS 1 - Pickups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpster, material checkers and receivers, greasers, truck tiremen, mechanic helpers and parts chaser.

CLASS 2 - Tandems, batch trucks, mechanics and dispatcher.

CLASS 3 - Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4 - Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5 - Off-highway tandem back-dump, twin engine equipment and double hitched equipment where not self loaded.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(ii))."

DECISION #AZ79-5100 - Mod. #7

(44 FR 8482 - February 9, 1979)
Statewide, Arizona

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters:					
Central and Southern Areas:					
Carpenters; Drywall Applicators; Saw Filers; Shinglers	$11.435	$1.075	$1.085		.05
Floorlayers (finish); Piledrivermen	11.74	1.075	1.085		.05
Millwrights	11.88	1.075	1.085		.05
Northern Area:					
Carpenters; Drywall Applicators; Saw Filers; Shinglers	13.56	1.075	1.085		.05
Floorlayers (finish); Piledrivermen	13.865	1.075	1.085		.05
Millwrights	14.005	1.075	1.085		.05
Cement Masons:					
Apache, Coconino, Gila, Mohave, Navajo, Yavapai, Yuma and the Northern portions of Graham, Greenlee, Maricopa and Pinal Counties:					
Central and Southern Areas:					
Cement Masons	11.21	.95	1.30		.05
Concrete troweling machine; Sawing and scoring machine; Curb and gutter machine	11.38	.95	1.30		.05
Northern Area:					
Cement Masons	13.085	.95	1.30		.05
Concrete troweling machine; Sawing and scoring machine; Curb and gutter machine	13.255	.95	1.30		.05
Electricians:					
Phoenix Area:					
Zone A	14.55	.96	3%+.88		3/4%
Zone B	16.55	.96	3%+.88		3/4%

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Phoenix Area (Cont'd)					
Zone C	$17.55	.96	3%+.88		3/4%
Globe-Miami Area:					
Zone A:					
Electricians	14.49	.60	11%		1%
Cable Splicers	14.74	.60	11%		1%
Zone B:					
Electricians	15.23	.60	11%		1%
Cable Splicers	15.48	.60	11%		1%
Zone C:					
Electricians	15.86	.60	11%		1%
Cable Splicers	16.11	.60	11%		1%
Zone D:					
Electricians	16.61	.60	11%		1%
Cable Splicers	16.86	.60	11%		1%
Laborers:					
Central and Southern Areas: (See Attached)					
Northern Area: (See Attached):					
Tunnel and Shaft Work: (See Attached)					
Painters:					
Tucson and Yuma Areas:					
Zone A:					
Brush	9.96	.77	.45		.06
Spray & Sandblasters	10.46	.77	.45		.06
Paperhangers	10.09	.77	.45		.06
Swing Stage, under 40 ft.:					
Brush	10.26	.77	.45		.06
Spray	10.76	.77	.45		.06
Swing Stage, over 40 ft.:					
Brush	10.71	.77	.45		.06
Spray	11.21	.77	.45		.06
Structural Steel and Tanks:					
Brush	10.96	.77	.45		.06
Spray & Sandblaster	11.46	.77	.45		.06
Zone B:					
Brush	10.71	.77	.45		.06
Spray & Sandblaster	11.21	.77	.45		.06

MODIFICATIONS P. 3

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Paperhangers	$10.84	.77	.45		.06
Swing Stage, under 40 ft.:					
Brush	11.01	.77	.45		.06
Spray	11.51	.77	.45		.06
Swing Stage, over 40 ft.:					
Brush	11.46	.77	.45		.06
Spray	11.96	.77	.45		.06
Structural Steel and Tanks:					
Brush	11.71	.77	.45		.06
Spray and Sandblaster	12.21	.77	.45		.06
Zone C:					
Brush	11.46	.77	.45		.06
Spray and Sandblaster	11.96	.77	.45		.06
Paperhangers	11.59	.77	.45		.06
Swing Stage, under 40 ft.:					
Brush	11.76	.77	.45		.06
Spray	12.26	.77	.45		.06
Swing Stage, over 40 Ft.:					
Brush	12.12	.77	.45		.06
Spray	12.71	.77	.45		.06
Structural Steel and Tanks:					
Brush	12.46	.77	.45		.06
Spray and Sand-blasters	12.96	.77	.45		.06
Zone D:					
Brush	11.96	.77	.45		.06
Spray	12.46	.77	.45		.06
Paperhangers	12.09	.77	.45		.06
Swing Stage, under 40 ft.:					
Brush	12.26	.77	.45		.06
Spray	12.76	.77	.45		.06
Swing Stage, over 40 ft.:					
Brush	12.71	.77	.45		.06
Spray	13.21	.77	.45		.06

MODIFICATIONS P. 4

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Structural Steel and Tanks:					
Brush	$12.96	.77	.45		.06
Spray and Sand-blasters	13.46	.77	.45		.06
Plasterers' Tenders	10.30	.92	1.10		.10
Power Equipment Operators: (Except Piledriving and Steel Erection):					
Central and Southern Areas: (See Attached					
Northern Area: (See Attached)					
Sheet Metal Workers:					
Zone Bases: from the Administration Bldg. or City Hall in Douglas and Tucson:					
Zone A	11.42	3%+1.14	1.92		.02
Zone B	12.37	3%+1.14	1.92		.02
Zone C	13.92	3%+1.14	1.92		.02
Sprinkler Fitters	13.76	.75	1.05		.08
Truck Drivers:					
Central and Southern Areas: (See Attached)					
Northern Area: (See Attached)					

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	C&SAREA	N AREA				
Laborers:						
Group 1	$9.06	$10.935	.92	$1.10		.10
Group 2	9.20	11.075	.92	1.10		.10
Group 3	9.35	11.225	.92	1.10		.10
Group 4	9.47	11.345	.92	1.10		.10
Group 5	9.65	11.525	.92	1.10		.10
Group 6	10.055	11.93	.92	1.10		.10
Group 7	10.745	12.62	.92	1.10		.10
Tunnel and Shaft Work:						
Group 1	9.325	11.20	.92	1.10		.10
Group 2	9.50	11.375	.92	1.10		.10
Group 3	9.64	11.515	.92	1.10		.10
Group 4	10.03	11.905	.92	1.10		.10
Group 5	10.225	12.10	.92	1.10		.10
Group 5-A	10.495	12.37	.92	1.10		.10
Power Equipment Operators: (Except Piledriving and Steel Erection):						
Group 1	9.66	11.535	1.10	1.10		.08
Group 2	10.06	11.935	1.10	1.10		.08
Group 3	10.55	12.425	1.10	1.10		.08
Group 4	11.13	13.005	1.10	1.10		.08
Group 5	11.70	13.575	1.10	1.10		.08
Group 5-A	12.03	13.905	1.10	1.10		.08
Group 6	12.39	14.265	1.10	1.10		.08
Group 7	13.04	14.915	1.10	1.10		.08
Truck Drivers:						
Group 1	9.23	11.105	.92	1.10		.08
Group 2	9.37	11.245	.92	1.10		.08
Group 3	9.61	11.485	.92	1.10		.08
Group 4	9.99	11.865	.92	1.10		.08
Group 5	10.16	12.035	.92	1.10		.08
Group 5-A	10.36	12.235	.92	1.10		.08
Group 6	10.51	12.385	.92	1.10		.08
Group 7	10.95	12.825	.92	1.10		.08
Group 8	11.505	13.38	.92	1.10		.08
Group 8-A	12.21	14.085	.92	1.10		.08
Group 8-B	9.84	11.715	.92	1.10		.08
Group 8-C	11.88	13.755	.92	1.10		.08

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Omit:					
Asbestos Workers	$11.94	.50	$1.20		.02
Bricklayers: (Tucson Area):					
Bricklayers; Stonemasons:					
Zone A: 0-15 miles from Tucson City limits	11.22	1.00	.90		.06
Zone B: Over 15 miles to 30 miles from Tucson City limits	11.59	1.00	.90		.06
Zone C: Over 30 miles to 40 miles from Tucson City limits	11.96	1.00	.90		.06
Zone D: Over 40 miles from Tucson City limits	12.72	1.00	.90		.06
Manhole Builders:					
Zone A: 0-15 miles from Tucson City limits	11.47	1.00	.90		.06
Zone B: Over 15 miles to 30 miles from Tucson City limits	11.84	1.00	.90		.06
Zone C: Over 30 miles to 40 miles Tucson City limits	12.21	1.00	.90		.06
Zone D: Over 40 miles from Tucson City limits	12.97	1.00	.90		.06
Cement Masons:					
Cochise, Pima, Santa Cruz and the Southern portions of Graham, Greenlee, Maricopa, and Pinal Counties:					
Central and Southern Areas:					
Cement Masons	10.22	.85	.85		.05

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete troweling machine; Sawing and scoring machine; Curb and gutter machine	$10.385	.85	.85		.05
Drywall:					
From Court House in Phoenix, Mesa, including Luke and Williams Air Force Bases:					
Tapers:					
Zone A:0-40 miles	10.21	.59	.50		.07
Zone B: 41-60 miles	11.21	.59	.50		.07
Zone C: 61 miles and over	12.46	.59	.50		.07
Texture Spraymen:					
Zone A: 0-40 miles	9.81	.59	.50		.07
Zone B: 41-60 miles	10.81	.59	.50		.07
Zone C: 61 miles and over	12.06	.59	.50		.07
Electricians:					
(Gallup Area - Apache County north of Hwy. #66):					
Electricians	14.10	.60	3%+.70		1/2%
Cable Splicers	14.69	.60	3%+.70		1/2%
Soft Floor Layers:					
(Phoenix Area):					
Zone A: 0-40 miles from Court House in Phoenix and Flagstaff including Luke and Williams Air Force Bases	9.21	.59	.12		.12
Zone B: 41-60 miles from Court House in Phoenix and Flagstaff	10.21	.59	.12		.12
Zone C: 61 miles and over from Court House in Phoenix and Flagstaff	10.71	.59	.12		.12
(Tucson Area)	9.25	.38			

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Asbestos Workers:					
Zone 1: Area lying within 15 miles radius from the City Hall in Phoenix or Tucson	$14.19	.82	$1.30		.03
Zone 2: Area lying beyond the limits of Zone 1 and within 30 miles radius from the City Hall in Phoenix or Tucson	14.89	.82	1.30		.03
Zone 3: Area lying beyond the limits of Zone 2 and within 40 miles radius from the City Hall in Phoenix or Tucson	15.09	.82	1.30		.03
Zone 4: Area lying beyond the limits of Zone 3 and within 50 miles radius from the City Hall in Phoenix or Tucson	15.54	.82	1.30		.03
Zone 5: Area lying beyond the limits of Zone 4	17.69	.82	1.30		.03
Bricklayers:					
Cochise, Graham County (Southern part), Greenlee County (Southern part), Pima, Pinal County (southern part), Santa Cruz Counties:					
Zone A: 0-15 road miles from Tucson City limits:					
Bricklayers; Stonemasons	11.96	1.00	.95		.06
Manhole Builders	12.21	1.00	.95		.06

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone B: 15-30 road miles from Tucson City limits:					
Bricklayers; Stonemasons	$12.33	$1.00	.95		.06
Manhole Builders	12.58	1.00	.95		.06
Zone C: 30-40 road miles from Tucson City limits:					
Bricklayers; Stonemasons	12.71	1.00	.95		.06
Manhole Builders	12.96	1.00	.95		.06
Zone D: Over 40 road miles from Tucson City limits:					
Bricklayers; Stonemasons	13.46	1.00	.95		.06
Manhole Builders	13.71	1.00	.95		.06
Cement Masons:					
Cochise, Pima, Santa Cruz and the southern portions of Graham, Greenlee, Maricopa, and Pinal Counties:					
Cement Masons	11.44	.92	1.10		.05
Concrete troweling machine; Sawing and scoring machine; Curb and gutter machine	11.61	.92	1.10		.05
Drywall Tapers & Texturers					
Zone A: 0-40 road miles from Courthouse in Phoenix; also Luke and Williams Air Force Bases	11.96	.59	.50		.12
Zone B: 41-60 road miles from Courthouse in Phoenix	12.96	.59	.50		.12
Zone C: 61 road miles and over from Courthouse in Phoenix	14.21	.59	.50		.12

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians:					
Apache County (north of Interstate 40):					
Electricians	$14.58	.60	3%+.70		1/2%
Cable Splicers	15.19	.60	3%+.70		1/2%
Lathers:					
South of a line crossing the State drawn through Ajo, Randolph and Springerville:					
Zone A: Area within a 30 mile radius of the City Hall in Tucson	12.53	.50			
Zone B: Area within a 30 to 40 mile radius of the City Hall in Tucson	13.03	.50			
Zone C: Area within a 40 to 50 mile radius of the City Hall in Tucson	13.28	.50			
Zone D: Area outside of Zone C	14.03	.50			
Soft Floor Layers	10.87	.69	.12		.12

DECISION #AZ79-5104 - Mod. #2
(44 FR 13215 - March 9, 1979)
Pima County, Arizona

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers:					
Zone 1	$14.19	.82	$1.30		.03
Zone 2	14.89	.82	1.30		.03
Zone 3	15.09	.82	1.30		.03
Zone 4	15.54	.82	1.30		.03
Zone 5	17.69	.82	1.30		.03
Boilermakers	14.36	1.175	1.00	1.00	.03
Bricklayers;Stonemasons:					
Zone A	11.96	1.00	.95		.06
Zone B	12.33	1.00	.95		.06
Zone C	12.71	1.00	.95		.06
Zone D	13.46	1.00	.95		.06
Carpenters:					
Carpenters; Drywall Applicator	11.435	1.075	1.085		.05
Piledrivermen; Floor Layers (finish)	11.74	1.075	1.085		.05
Millwrights	11.88	1.075	1.085		.05
Cement Masons	11.44	.92	1.10		.05
Electricians:					
Zone A	10.63	.60	3%		1/2%
Zone B	11.17	.60	3%		1/2%
Zone C	11.71	.60	3%		1/2%
Zone D	12.25	.60	3%		1/2%
Laborers:					
Group 1	9.06	.92	1.10		.10
Group 2	9.20	.92	1.10		.10
Group 3	9.35	.92	1.10		.10
Group 4	9.47	.92	1.10		.10
Group 5	9.65	.92	1.10		.10
Group 6	10.055	.92	1.10		.10
Group 7	10.745	.92	1.10		.10
Lathers:					
South of a line crossing the State drawn through Ajo, Randolph and Springerville:					
Zone A	12.53	.50			
Zone B	13.03	.50			
Zone C	13.28	.50			
Zone D	14.03	.50			

DECISION NO. AZ79-5104 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plasterers' Tenders	$10.30	.92	$1.10		
Power Equipment Operators: (Except Piledriving and Steel Erection):					
Group 1	9.66	1.10	1.10		.08
Group 2	10.06	1.10	1.10		.08
Group 3	10.55	1.10	1.10		.08
Group 4	11.13	1.10	1.10		.08
Group 5	11.70	1.10	1.10		.08
Group 5-A	12.03	1.10	1.10		.08
Group 6	12.39	1.10	1.10		.08
Group 7	13.04	1.10	1.10		.08
Soft Floor Layers	10.87	.69	.12		.12
Truck Drivers:					
Group 1	9.23	.92	1.10		.08
Group 2	9.37	.92	1.10		.08
Group 3	9.61	.92	1.10		.08
Group 4	9.99	.92	1.10		.08
Group 5	10.16	.92	1.10		.08
Group 5-A	10.36	.92	1.10		.08
Group 6	10.51	.92	1.10		.08
Group 7	10.95	.92	1.10		.08
Group 8	11.505	.92	1.10		.08
Group 8-A	12.21	.92	1.10		.08
Group 8-B	9.84	.92	1.10		.08
Group 8-C	11.88	.92	1.10		.08
Omit:					
Painters:					
Zone A: 0-30 miles from Tucson Post Office:					
Brush	9.71	.67	.40		.06
Structural Steel, brush	10.71	.67	.40		.06
Zone B: 31-40 miles from Tucson Post Office:					
Brush	10.46	.67	.40		.06
Structural Steel, brush	11.46	.67	.40		.06

DECISION NO. AZ79-5104 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone B: 31-40 paved road miles from Stone and Congress in Tucson:					
Brush	$10.71	.77	.45		.06
Structural Steel, brush	11.21	.77	.45		.06
Zone C: 41-50 paved road miles from Stone and Congress in Tucson:					
Brush	11.46	.77	.45		.06
Structural Steel, brush	11.96	.77	.45		.06
Zone D: 51 paved road miles and over from Stone and Congress in Tucson:					
Brush	11.96	.77	.45		.06
Structural Steel, brush	12.46	.77	.45		.06
Sheet Metal Workers:					
Zone A: 0-22 radius miles from Tucson City Hall or Douglas City Hall	11.42	3%+1.14	1.92		.02
Zone B: 22-45 radius miles from Tucson City Hall or Douglas City Hall	12.37	3%+1.14	1.92		.02
Zone C: Beyond 45 radius miles from Tucson City Hall or Douglas City Hall; also San Manuel and vicinity	13.92	3%+1.14	1.92		.02

DECISION NO. AZ79-5104 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone C: 41-50 miles from Tucson Post Office:					
Brush	$11.21	.67	.40		.06
Structural Steel, brush	12.21	.67	.40		.06
Zone D: 51 miles and over from Tucson Post Office:					
Brush	11.71	.67	.40		.06
Structural Steel, brush	12.71	.67	.40		.06
Sheet Metal Workers:					
Zone A: 0-22 miles from Tucson	10.30	3%+1.14	1.91		.04
Zone B: 22-45 miles from Tucson	11.25	3%+1.14	1.91		.04
Zone C: Over 45 miles from Tucson	12.80	3%+1.14	1.91		.04
Add:					
Painters:					
Zone A: 0-30 paved road miles from Stone and Congress in Tucson:					
Brush	9.96	.77	.45		.06
Structural Steel, brush	10.46	.77	.45		.06

MODIFICATIONS P. 15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #CO79-5116-Mod. #3 (44 FR 29237 - May 18, 1979) Statewide, Colorado					
Change: Electricians: Delta, Dolores, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, San Juan, and San Miguel Counties:					
Electricians	$12.85	.72	3%+.25		1½%
Cable Splicers	13.10	.72	3%+.25		1½%
DECISION #CO79-5118-Mod. #3 (44 FR 34724 - June 15, 1979) El Paso County, Colorado					
Change: Roofers	10.65	.59	.40		
DECISION #CO79-5119-Mod. #3 (44 FR 34728 - June 15, 1979) Delta, Garfield, Gunnison Mesa, Montrose and Pitkin Counties, Colorado					
Change: Electricians:					
Electricians	12.85	.72	3%+.25		1½%
Cable Splicers	13.10	.72	3%+.25		1½%

MODIFICATIONS P. 16

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. DE78-3080 - MOD. #7 (42 FR 51567 - November 3, 1978) State of Delaware					
Change: CARPENTERS-BUILDING AND HEAVY CONSTRUCTION: New Castle and Kent Counties	$10.80	1.29	1.40		.02
CARPENTERS - HIGHWAY CONSTRUCTION: New Castle and Kent Counties	9.20	1.29	1.40		.02
CEMENT MASONS: Building Construction	10.05	1.28	.82		
Heavy and Highway Construction	9.75	1.28	.82		
LABORERS-BUILDING CONSTRUCTION: Kent and Sussex Counties:					
Group 1	8.80	.90	.80		
Group 2	9.05	.90	.80		
Group 3	9.30	.90	.80		
Group 4	9.40	.90	.80		
Group 5	10.05	.90	.80		
LABORERS-HEAVY CONSTRUCTION: Kent and Sussex Counties:					
Common laborers, landscrapers, planters, seeders, aborists, asphalt tampers, rakers, concrete pitman, puddlers, rubber magazine tenders, railroad trackmen, signal men	5.55	.90	.80		
Pipelayers	5.70	.90	.80		
Wagon drill, diamond point drill, gunite nozzlemen, form setters, blasters, caissons & coffer dams (open-air, below 8')	5.85	.90	.80		

DECISION NO. DE78-3080 - (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Base Rate	10.27	1.00	.55		.01
Structural steel and suspended scaffolding (swing, chair, and window belts)	10.49	1.00	.55		.01
Machine taping	10.77	1.00	.55		.01
Bridges (if surface to be painted is 50' or more above ground or water) and/or cabled scaffolding	12.60	1.00	.55		.01
Tank (if exposed to the weather and is used for storage or processing purposes with a capacity of 5,000 gallons or more using exterior dimensions and/or interior work on all tanks), sandblasting, and spray	10.82	1.00	.55		.01
Height pay - Work 75' or more from surface an additional 55¢ shall be paid above the applicable rate					
PLUMBERS AND STEAMFITTERS:					
New Castle and Kent (north of the southern boundary of Dover City) Counties:					
Plumbers	13.64	1.25	1.10	1.00	.10
SOFT FLOOR LAYERS:					
New Castle and Kent Counties	10.30	1.29	1.40		.02
Decision # FL79-1064 Mod #3 (44 FR-22308- April 13, 1979) Orange County, Florida					
Change:					
Bricklayers:					
Bricklayers	9.70	.50	.40		.04
Stonemasons	9.70	.50	.40		.04
Marble masons	9.70	.50	.40		.04
Plasterers	9.70	.50	.40		.04
Cement masons	9.70	.50	.40		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # FL79-1094 Mod.#1 (44 FR-33328 June 8, 1979) Dade County, Florida					
Change:					
Bricklayers	10.90	.70	.62		.07
Cement Masons	10.90	.70	.62		.07
Decision #MS79-1119 Mod #2 (44 FR 48567-August 17, 1979) Hancock, Harrison, Jackson, and Pearl River Counties, Mississippi.					
Change:					
Laborers:					
Laborers	5.95	.20	.20		.05
Asphalt rakers, Mason tenders, Mortar mixers, pipelayers, pipe wrappers, post hole digger, plasterers tenders	6.10	.20	.20		.05
DECISION #NV79-5107-Mod. #4 (44 FR 13225 - March 9, 1979) Nevada Test Site including Tonopah Test Range in Clark, Lincoln and Nye Counties, Nevada					
Change:					
Bricklayers	$13.87	.90	.60		.06
Cement Masons:					
Cement Masons	12.40	1.00	1.00		.08
Floor Finishing Machine	12.75	1.00	1.00		.08
Electricians:					
Groundman	11.90	.98	3%+1.80		.05
Truck Drivers:					
H & W should read $0.57					

DECISION NO. NJ78-3047 - MOD. #8 (43 FR 26235 - June 16, 1978)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, and Salem Counties, New Jersey					
Change:					
ELECTRICIANS & CABLE SPLICERS:					
Zone 2	14.64	7%	3%+.75		.15
Zone 3	13.63	7%	3%+1.10		.05
Zone 4	13.23	7%	3%+1.10		.04
IRONWORKERS-STRUCTURAL, ORNAMENTAL AND REINFORCING:					
Zone 2	11.53	1.24	2.86		
LINE CONSTRUCTION:					
Zone 2					
Linemen, Cable Splicers, Truck Drivers, Equipment Operators & Technicians	14.64	7%	3%+.75		3/4%
Groundmen & Winch Operators	11.71	7%	3%+.75		3/4%
Zone 3					
Linemen	13.23	7%	3%+1.10		3/4%
Groundmen & Winch Operators	10.78	7%	3%+1.10		3/4%
Zone 4					
Linemen	13.23	7%	3%+1.10		3/4%
Line Digger Truck Drivers	8.76	7%	3%+1.10		3/4%
Groundmen	9.91	7%	3%+1.10		3/4%
PAINTERS:					
Zone 5					
General Painting	9.75	.55	.25		
Spray, special material, and blasting	11.30	.55	.25		
Repainting work except bridges, tanks, towers, all other open structural steel, and power plants	8.75	.55	.25		

DECISION NO. NJ78-3047 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS:					
ZONE 1	12.35	.52	.52	1.00	.10
ROOFERS:					
Zone 4:					
Composition, Water-proofing, slate, and Asphalt Shingle	12.62	1.33	.80		
Change:					
AREA COVERED BY PLUMBERS AND PIPEFITTERS ZONES:					
Zone 3:					
Burlington (remainder of county), Mercer (excluding Hopewell and Hopewell Twp.), Monmouth, and Ocean (remainder of county) Counties					
DECISION NO. NJ79-3013 - MOD. #1 (44 FR 36661 - June 22, 1979)					
Atlantic County, New Jersey					
Change:					
ELECTRICIANS:					
All other residential construction:					
That portion south west of a line following the White Horse Pile (US Hwy. #30) in a south-easterly direction from Camden County to the Mays Landing DaCosta Road, continuing south along that river to the Great Egg Harbor River near Weymouth along that river to the Harding Highway to the Mays landing Tuckahoe Road south on that road to the north limits of county	13.23	7%	3%+1.10		.04
IRONWORKERS	12.53	1.24	2.86		
PLUMBERS & PIPEFITTERS	12.35	.52	.52	1.00	.10
SHEET METAL WORKERS	13.14	1.14	.96		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NC78-1061-MOD.# 2 (43 FR-29463-July 7, 1978) Statewide, North Carolina					
Omit: Power Equipment Operators: Asphalt finisher	5.25				
DECISION #ND78-5125 -Mod. #3 (43 FR 43222-September 22, 1978) Statewide, North Dakota					
Change: Truck Drivers: Single Axle	7.36	.65	.35		
Tandem	7.46	.65	.35		
Agitator Dumpcrete; Off Road Heavy End Dumps, 20 yards and under; Tandem Semi, Lowboy	7.73	.65	.35		
Euclid, over 20 yards	8.41	.65	.35		
DECISION #ND79-5128-Mod. #1 (44 FR 45856 - August 3, 1979) Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Walsh and Ward Counties, North Dakota					
Change Truck Drivers: Site Preparation, Excavation, and Incidental Paving: Single Axle	$7.36	.65	.35		
Tandem	7.46	.65	.35		
Agitator Dumpcrete; Off Road Heavy End Dumps, 20 yards and under; Tandem Semi, Lowboy	7.73	.65	.35		
Euclid, over 20 yards	8.41	.65	.35		

[FR Doc. 79-31362 Filed 10-11-79; 8:45 am]
BILLING CODE 4510-27-C

federal register

Friday
October 12, 1979

Part IV

Department of the Interior

Fish and Wildlife Service

Endangered Species Scientific Authority

American Alligator; Changes to Special Rule; Final 1979 Export Findings

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13 and 17

Changes to the Special Rule Concerning the American Alligator

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The special rule concerning the American alligator, *Alligator mississippiensis*, found at § 17.42(a) is revised to allow the limited commercial export and import of lawfully taken American alligator hides and manufactured products from those hides in accordance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter referred to as the Convention or by the acronym CITES). The sale of meat and other parts, except hides, from lawfully taken American alligators is allowed only in the State where the taking occurs, if these activities are authorized by State law and conducted in accordance with State laws and regulations. Foreign buyers, tanners, and fabricators who want to engage in their respective activities with hides of lawfully taken American alligators are required to obtain a buyer, tanner, or fabricator permit issued under the special rule. Foreign applicants for such permits are subject to more stringent applicant requirements than domestic applicants. Additional special conditions, including recordkeeping and reporting requirements, have been added to buyer, tanner, or fabricator permits. American alligators classified under § 17.11 as "in captivity wherever found" have been included within the coverage of the special rule. Permits to engage in any of the activities otherwise prohibited by the special rule are no longer available under § 17.52 for such alligators. Instead, a permit issued under authority of the special rule is available. Finally, the exception provided for taking American alligators in self-defense has been deleted in favor of the more liberal defense found in the Endangered Species Act of 1973, as amended (hereinafter referred to as the Act).

DATES: This rule is effective October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Marshall L. Stinnett, Special Agent in Charge, Regulations and Penalties, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, (202) 343-9242, or Mr. Harold J. O'Connor, Acting Associate Director-Federal Assistance, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202) 343-4646.

SUPPLEMENTARY INFORMATION:

Background

On October 2, 1978 (43 FR 45513), the U.S. Fish and Wildlife Service published proposed amendments to the special rule concerning the American alligator. Briefly, the Service proposed to amend the special rule (1) to simplify application procedures for those persons seeking buyer's, tanner's, or fabricator's permits, (2) to allow the sale of meat from lawfully taken alligators in the State where the taking occurs, and (3) to limit the applicability to American alligators of general permits pertaining to threatened wildlife issued under § 17.32. The Service would have allowed the import and export of American alligators only if those activities were consistent with the CITES.

Subsequently, on July 18, 1979 (44 FR 41894), the Service proposed to revise the special rule in response to changes affecting the domestic and international protection afforded the American alligator. Domestically, the number of parishes in Louisiana in which the American alligator could be lawfully taken from the wild was increased to twelve. *See* 44 FR 37131 (June 25, 1979); correction made 44 FR 42911 (July 20, 1979). Internationally, the American alligator's status under the CITES was changed to allow the resumption of international trade. *See* 44 FR 25480, (May 1, 1979).

The Service proposed a worldwide "closed system" wherein only permittees may engage in commercial activity with hides of lawfully taken American alligators until an engraved label provided by the Service is affixed by the fabricator to manufactured products made from those hides. Once marked, buyers and sellers would not be required to obtain a Federal permit to buy, sell, or transfer such marked products in interstate or foreign commerce. However, the export and import of lawfully taken American alligator hides and manufactured products from those hides would have to be conducted in accordance with the Convention.

Authorization to conduct a controlled harvest of American alligators in the State of Louisiana in those twelve parishes in which the American alligator is listed under § 17.11 as threatened—similarity of appearance and to sell the meat or other parts, except hides, from those lawfully taken American alligators only within the State of Louisiana subject to the laws and regulations of that State was promulgated on September 6, 1979 (44 FR 51980). The details of other aspects of the proposal may be obtained by consulting the **Federal Register** of July 18, 1979 (44 FR 41894).

Summary and Analysis of Comments

Both proposals (October 2, 1978, 43 FR 45513; and July 18, 1979, 44 FR 41894) and related Department of the Interior news releases (September 28, 1978, and July 20, 1979) invited comments. The Service also requested comments during a reopened comment period from May 10, 1979, through June 5, 1979 (May 9, 1979, 44 FR 27190), and received comments at public hearings held on May 25, 1979, at Morgan City, Louisiana, and on May 29, 1979, at Tallahassee, Florida.

The Service received a number of comments. Among these were included comments from the following elected officials, governmental agencies, or organizations: Governor Edwin Edwards (State of Louisiana), Congressman David C. Treen (Third District, Louisiana), Louisiana Wild Life and Fisheries Commission (Donald F. Wille and J. Burton Angelle), Louisiana Wild Life and Fisheries Commission—Rockefeller Wildlife Refuge (Ted Joanen), Little Pecan Wildlife Management Area (Robert A. Koll), Jefferson Davis Parish Police Jury, Terrebonne Parish Police Jury, Florida Game and Fresh Water Fish Commission (Col. Robert Brantly), South Carolina Wildlife and Marine Resources Department (James A. Timmerman, Jr.), International Association of Fish and Wildlife Agencies (Jack H. Berryman), Southeastern Association of Fish and Wildlife Agencies—Alligator Committee (J. Burton Angelle), Food and Agriculture Organization of the United Nations—Project on Assistance to the Crocodile Skin Industry (R. Whitaker), Environmental Defense Fund (Michael J. Bean), Defenders of Wildlife (John W. Grandy, IV), Florida Audubon Society (Dr. Archie Carr, III), National Wildlife Federation (Thomas L. Kimball), Southeastern Alligator Association (J. Don Ashley), Southwest Florida Regional Alligator Association (George R. Campbell), Columbia Impex Corporation (Armand S. Bennett), Westchester Animal Protection League (Stephan Zebreck), Sympathetic People for Animal Rights on Earth, Inc. (Laura Bellow), Fouke Company (Goerge G. Heinz), J. M. Burguieres, Co., Ltd., (Samuel T. Burguieres), Ascantia, Inc. (Michael H. Ellis), Williams, Inc. (Hugh C. Brown), and Deseret Ranches of Florida, Inc. (Harvey A Dahl).

At Morgan City, Louisiana, approximately 200 persons attended the public hearing and 19 people made statements. In addition, a number of written comments and resolutions were presented for inclusion in the minutes of the public hearing. The following institutions and governmental representatives made statements: Mr. Richard Yancey (Assistant Secretary, Louisiana Department of Wild Life and Fisheries), State Senator Jesse Knowles, Doyle Berry (Chairman, Louisiana Wild Life and Fisheries Commission), Don Wille (Vice Chairman, Louisiana Wild Life and Fisheries Commission), Charles A. Riggs (Commissioner, Louisiana Wild Life and Fisheries Commission), St. Mary's Parish Police Jury, Terrebonne Parish Policy Jury, Tangipahoa Parish Police Jury, Livingston Parish Policy Jury, Williams Inc., Contenental Land and Fur Co., Ascantia Corp., Tenneco LaTerre, Allen Parish Police Jury, St. Landry Parish Policy Jury, Vermillion Corp., St. John the Baptist Parish Police Jury, Louisiana Land Exploration Corp.

At Tallahassee, Florida, 15 persons attended the public hearing and four made statements: Allan Egbert and Tommy Hines (Florida Game and Fresh Water Fish Commision), J. Don Ashley (Southeastern Alligator Association), Mr. Charles Lee (Florida Audubon Society).

The Service has carefully considered all of these comments and statements. Those received on the controlled harvest of American alligators in Louisiana and the sale of meat or other parts, except hides, were summarized and discussed on September 6, 1979 (44 FR 51980), and will not be repeated. Aspects of the latest proposal (July 18, 1979, 44 FR 41894) on which relevant comments and statements have been received during open comment periods or at public hearings since October 2, 1978, are addressed separately below.

1. *American alligators in captivity.* Several commenters expressed dissatisfaction with the Service's proposed handling of American alligators classified under § 17.11 as "in captivity wherever found." The Service proposed to: (1) allow the taking of American alligators in captivity which meet the definition of "bred in captivity" without the prior grant of a Federal permit, subject to enumerated requirements, (2) eliminate the availability of permits issued under § 17.52 (Permits—similarity of appearance), and (3) require a permit issued under § 17.32 (Permits—general) to either take captive American alligators which have not been bred in captivity or to engage in any other prohibited activity, except taking, with any American alligators in captivity.

Although these changes would have provided more flexibility in the administration of American alligator farm programs, such provisions might adversely affect Louisiana's State-sponsored alligator farm program and any subsequent State-sponsored programs. The definition of "bred in captivity" also contained provision for augmenting the captive population from the wild, without designating who will determine when the guidelines for such augmentation have been met. Initially, a substantial number of American alligators within a farming/propagation program would not be bred in captivity and the contemplated use of these alligators would not fall within the purposes for which a permit may be issued under § 17.32.

As a result the Service has deleted the definition "bred in captivity" and removed authorization to take American alligators bred in captivity without the prior grant of a Federal permit. The Service will continue to require a permit to engage in otherwise prohibited activities, including taking, with any American alligators in captivity. Permits for these alligators are available only under the special rule, § 17.42(a). These permits may authorize commercial activity with all captive alligators and will not restrict the use of a portion of the captive population to purposes for which a permit may be issued under § 17.32.

One commenter took exception to the classification of a population of American alligators as "in captivity wherever found." Although the current classification is not a topic of this rulemaking, permits to engage in otherwise prohibited activities with captive American alligators would be subject to stricter control under § 17.42(a) than previously, when permits were available under § 17.52. The Service recognizes that captivity must occur lawfully, and in addition, will only issue permits when American alligators have been born in captivity, or lawfully placed in captivity.

2. *Sale of American alligator meat and other parts, except hides.* Numerous commenters suggested or supported authorization to sell the meat and other parts of American alligators taken lawfully, including from captivity to prevent the wasting of a valuable resource. For this reason the Service has included provisions to allow such sale whenever American alligators are taken lawfully, subject to the same restrictions imposed by the special rule on the sale of meat and other parts from American alligators taken lawfully during Louisiana's controlled harvest. *See* 44 FR 51980 (September 6, 1979). The sale of these items is allowed only in the State where the taking occurs, if authorized by State law and conducted in accordance with State laws and regulations.

Also, States which may subsequently be given authority to conduct a controlled harvest now can be assured of having the opportunity to allow the sale of meat and other parts within the State. Although the Service has not required any particular form of State regulation, the Service remains opposed to unregulated sale. Licensing and recordkeeping requirements imposed by the State of Louisiana, for example, have facilitated effective enforcement with respect to the sale of meat and other parts within Louisiana. The Service will continue to review the measures adopted by States to control the sale of meat and other parts and, if necessary, will require the imposition of certain regulatory controls.

3. *Export.* A number of comments addressed, either directly or indirectly, the proposed export findings of the U.S. Endangered Species Scientific Authority (hereinafter referred to as the ESSA) for the export of lawfully taken American alligator hides (May 31, 1979, 44 FR 31584; and August 13, 1979, 44 FR 47386), which would allow export only to licensed buyers, tanners, or fabricators located in countries which have ratified the CITES and which have not taken reservations for any crocodilians. No such situs restriction was proposed by the Service. In its place a highly regulated "closed system" has been adopted by the Service, which does not exclude a buyer, tanner, or fabricator who uses crocodilians listed on Appendix I of the Convention, but does impose additional recordkeeping and reporting requirements on such a permittee. The "closed system" is discussed at greater length below.

One commenter suggested a three to six month moratorium on the exportation of American alligator hides during which domestic tanners and fabricators can "gear up" to meet foreign competition. Since three parishes in Louisiana were classified as threatened—similarity of appearance on September 26, 1975 (40 FR 44412), only a domestic market has existed. American alligators were not eligible to be commercially traded in foreign commerce until the alligator's status under the CITES was changed from Appendix I to Appendix II on June 28, 1979 (44 FR 25480, May 1, 1979). This transfer was proposed on February 14, 1979 (44 FR 9689). Ample notice of the

possibility of foreign competition has been given to domestic tanners and fabricators.

4. *Permits.* The worldwide "closed system" proposed by the Service and the effect of this international commercialization of lawfully taken American alligator hides and products from these hides generated the greatest number of comments.

One commenter felt the proposal would be likely to stimulate an increased worldwide demand for American alligator hides, which may outstrip the legally available supply. The same commenter went on to ask whether law enforcement measures are adequate to protect the wild resource (i.e., American alligator) and whether the proposed "closed system" regulatory scheme, with its onsite inspection program, is enforceable. The Service has made every effort through tagging, labeling, marking, recordkeeping, reporting, and inspection requirements to insure that trade in American alligators will be restricted to permittees operating in strict compliance with the special rule. The fact that the American alligator is exclusively a U.S. species, that its numbers appear to be on the increase, and that at least some geographic populations are neither biologically threatened or endangered indicate the Service's approach is a sound one. Only lawfully taken American alligator hides should enter the system, and only poducts from those hides should leave it.

Several general factors recently summarized by the ESSA on May 31, 1979 (44 FR 31586), also indicate that the export of lawfully taken American alligator hides will not be detrimental to the survival of the species: (1) the excessive harvest of the American alligator which occurred in past years has given way to sound management of the species, (2) domestic trade has come under increased Federal control, and (3) the species has responded well to increased protection.

Several commenters found the proposal overzealous and restrictive because of the institution of extensive recordkeeping requirements, the inclusion of fabricators within the "closed system," and the imposition of more stringent application criteria on foreign applicants. The Service disagrees. Recordkeeping and reporting requirements are an integral part of enforcement and monitoring. Reports are to be used to assess compliance with the regulations, to determine the effectiveness of the regulations, and to monitor the impact of the special rule on the American alligator and other affected species of the Order Crocodilia. The Service will periodically review implementation of these regulations, including the reports from permittees, and will impose, if necessary, additional conditions on permits issued pursuant to these regulations to insure that trade in American alligators and other species of the Order Crocodilia is effectively controlled in accordance with existing law. The Service hopes the availability of lawfully taken American alligators will result in less exploitation of other endangered crocodilians, particularly when a reliable long-term supply of American alligators is foreseeable.

To determine the impact the introduction of American alligators will have on international trade in endangered crocodilians, the Service is requiring a report on the applicant's dealings during the preceding five years with those crocodilians listed on Appendix I of the CITES to the extent such records are available, as one of the application requirements for a buyer, tanner, or fabricator permit.

One commenter felt the imposition of recordkeeping and reporting requirements would impede international trade in American alligators because such information could be considered a trade secret. Indeed, the most significant impact will be on buyers, tanners, or fabricators located outside of the United States who are engaged in high volume trade in crocodilians. Because of their high volume trade in other crocodilians they have a greater opportunity to commingle American alligator hides and products with those of other crocodilians. However, any trade secrets submitted by an applicant or permittee are protected by existing Federal law. *See* 18 USC 1905 and 5 USC 552.

Fabricators are an integral part of the "closed system" and must continue to hold a valid Federal permit to fabricate tanned American alligator hides. If fabricators are excluded from the permit system several weaknesses develop: (1) the United States would not have jurisdiction over the activities of foreign fabricators, (2) there would be no way to document the relationship of American alligator hides processed to finished American alligator products, and (3) no authority would exist to require a fabricator to mark products.

More stringent application requirements are imposed on foreign applicants as part of the expansion of the domestic "closed system" worldwide. To insure jurisdiction over foreign permit holders they are required to appoint an agent for the service of process and to identify any property held in the United States. Before a buyer, tanner, or fabricator permit is issued to a foreign applicant the Director will consider the opinions and views of the ESSA. Foreign permittees will be subject to permit revocation and other applicable sanctions of the Act for violation of permit conditions.

Several commenters found the recordkeeping requirements insufficient. The Service agrees and has adopted *species—specific* recordkeeping for transactions with other species of the Order Crocodilia. Permittees, however, are only required to report on transactions with American alligators and other species of the Order Crocodilia listed on Appendix I of the CITES. This should reduce the reporting burden on permittees, yet provide the Service with information on the permittee's activities most subject to scrutiny. If additional records must be reviewed they can be inspected at the permittee's premises under § 13.47.

The Service has not adopted suggestions to impose a special condition on buyer, tanner, or fabricator permits which either would require buyers, tanners, or fabricators to be located in countries which have ratified the CITES and not taken reservations for any crocodilians, or would limit, and perhaps cease, a permittee's use of Appendix I crocodilians. The Service has adopted a special condition requiring permittees to abide by any State, Federal, or foreign laws concerning any hide, part, or product of any species of the Order Crocodilia. Voluntary submission by an applicant to the permit conditions and the jurisdiction of the United States is sufficient. Any additional restrictions on the lawful use of crocodilians would operate in the nature of a penalty for actions which are otherwise lawful.

Description of the Final Rule

The primary purpose of this rule, as described above, is to expand world-wide the domestic "closed system" of trade in lawfully taken American alligator hides and products from those hides created by the special rule, with adjustments to take into account changed circumstances.

The Service has accomplished this by: (1) indicating which American alligators are covered by the special rule and the conditions under which they are available, (2) authorizing the export and import of qualified hides and products in accordance with the CITES, and (3) allowing foreign buyers, tanners, and fabricators entry into the highly regulated "closed system."

The final rule contains the provisions enumerated below.

1. American alligators listed under § 17.11 as "in captivity wherever found"

are included in the definition "American alligator" and are now covered by the special rule. Permits to engage in otherwise prohibited activities with captive American alligators are no longer available under § 17.52 (Permits—similarity of appearance). Permits are only available under the special rule, § 17.42(a)(3)(iv), as provided by section 4(d) of the Act (16 U.S.C. 1533(d)), and may be issued to take any American alligator in captivity, subject to the enumerated conditions, which have been bred in captivity or lawfully placed in captivity. In addition, the permit issued under the special rule may authorize the permittee to engage in other prohibited activities without being restricted to the purposes for which a permit may be issued under § 17.32.

2. The meat and other parts, except hides, of lawfully taken American alligators may be sold only in the State where the taking occurs if such sale is authorized by State law and conducted in accordance with State laws and regulations. This presently includes the possibility for such sale from American alligators taken: (a) from the wild during Louisiana's controlled harvest, (b) as nuisance alligators within Florida and Louisiana, and (c) from captivity.

3. American alligators listed under § 17.11 as threatened—similarity of appearance may be taken from the wild in accordance with the laws and regulations of the State in which the taking occurs, subject to two conditions. *See* § 17.42(a)(2)(i)(D). Incorporation of the listing eliminates the need to amend the special rule whenever it is affected by a reclassification of the American alligator.

4. Export and import of the hides and manufactured products of lawfully taken American alligators are not prohibited if conducted in accordance with CITES, as long as the hides bear the tag attached by the State where the taking occurred or the manufactured products have the mark attached which was provided by the Service and affixed by the fabricator, at the time of export or import. When the Service's mark is affixed to manufactured products, only CITES documentation is necessary. Tagged hides, however, still have to move within the "closed system."

5. Permits are available under § 17.32 (Permits—general) in relation to American alligators for the purposes for which permits may be issued under that section, which are: scientific purposes, or the enhancement of propagation or survival; economic hardship; zoological exhibition; educational purposes; or special purposes consistent with the purposes of the Act.

6. Buyer, tanner, or fabricator permits (hereinafter referred to as BTF permits) issued under the special rule, § 17.42(a)(3)(iii), are available to foreign applicants, but additional application requirements have been imposed on them. Through application requirements, issuance criteria, and special conditions BTF permits establish the "closed system" to address the potential for commingling lawfully taken American alligator hides with illegally taken hides or with hides of other species of the Order Crocodilia and the potential for commingling the products of each. A number of provisions have been added to accomplish this objective:

a. Hides can be sold or otherwise transferred only to BTF permittees. Hides must be tagged, and all tags accounted for when removed for fabrication.

b. BTF permittees can only sell or otherwise transfer American alligator hides to other BTF permittees, except for fabricated products upon which a label provided by the Service is affixed.

c. Recordkeeping is required for all transactions in any crocodilians in accordance with § 13.46.

d. Annual reporting is required for transactions in American alligators and Appendix I crocodilians.

e. Applicants for BTF permits must include a report on the applicant's dealings during the preceding five years with species of the Order Crocodilia which at any time have been listed on Appendix I of the CITES, to the extent such records are available.

f. As a general condition of the permit under § 13.47, BTF permittees are subject to reasonable inspections.

g. Detailed organizational information is required of business organizations.

h. BTF permittees must not violate any State, Federal, or foreign laws concerning any hide, part, or product of any species of the Order Crocodilia.

7. The self-defense exception formerly found in paragraph (a)(1)(i)(A) has been deleted. The Act, as amended (16 USC 1540), liberalized the circumstances under which the defense can be raised. The Service plans to propose revised self-defense regulations applicable to all endangered and threatened wildlife in the near future.

Effective Date of This Rule

The Service has found good cause, as required by 5 U.S.C. 553(d)(3) and 43 CFR 14.5(b)(5), for making this rulemaking effective immediately. The State of Louisiana began a controlled harvest of the American alligator on September 7, 1979. This rulemaking is necessary to allow restricted trade in lawfully taken American alligators which will not be detrimental to the conservation of the species.

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Division of Law Enforcement, 1375 K Street, NW., Washington, D.C., and may be examined during regular business hours. This assessment forms the basis for the decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. The primary author of this rulemaking is Mr. John T. Webb, Paralegal Specialist, Division of Law Enforcement, (202) 343–9242.

Regulations Promulgation

Accordingly, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations is hereby amended as set forth below:

PART 13—GENERAL PERMIT PROCEDURES

§ 13.12 [Amended]

1. Amend § 13.12(b) by inserting two (2) additional types of permits, "American alligator—buyer, tanner, or fabricator . . . . . 17.429(a)" and "American alligator—American alligators in captivity . . . . . 17.42(a)" after "General for wildlife . . . . . 17.32" and before "General for plants . . . . . 17.72."

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

2. Amend § 17.11(i) by replacing the entries for "Alligator, Am.," under "Reptiles," with the following entries:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species		Range			Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion endangered			
Alligator, American	*Alligator mississippiensis*	Wherever found in the wild, except in those areas where it is listed as Threatened, as set forth below.	Southeastern United States.	Entire	E	11	NA
Alligator, American	*Alligator mississippiensis*	In the wild in FL and in certain areas of GA, LA (except in those parishes listed as T(S/A)), SC and TX, as set forth in Sec. 17.42(a)(1).	U.S. (FL and certain areas of GA, LA (except in those parishes listed as T(S/A)), SC and TX.	Entire	T	20	17.42(a)
Alligator, American	*Alligator mississippiensis*	In the wild in Cameron, Vermilion, Calcasieu, Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, and Plaquemines Parishes in LA.	U.S. (Cameron, Vermilion, Calcasieu, Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, and Plaquemines Parishes in LA).	NA	T(S/A)	11	17.42(a)
Alligator, American	*Alligator mississippiensis*	In captivity wherever found	Worldwide	NA	T(S/A)	11	17.42(a)

3. Revise § 17.42(a) to read as follows:

§ 17.42 Special rules—reptiles.

(a) *American alligator (Alligator mississippiensis).* (1) *Definitions.* For the purposes of this paragraph (a):

"American alligator" shall mean any member of the species *Alligator mississippiensis*, and any part, offspring, dead body, part of a dead body, or product of such species occurring in captivity wherever found or in the wild wherever listed under § 17.11 of this subchapter as threatened—similarity of appearance, and in the wild in Florida and in certain coastal areas of Georgia, Louisiana, South Carolina, and Texas, contained within the following boundaries:

From Winyah Bay near Georgetown, South Carolina, west on U.S. Highway 17 to Georgetown; thence west and south on U.S. Alternate Highway 17 to junction with U.S. Interstate Highway 95 near Walterboro, South Carolina; thence south on U.S. Interstate Highway 95 (including incomplete portions) to junction with U.S. Highway 82; thence southwest on U.S. Highway 82 to junction with U.S. Highway 84 at Waycross, Georgia; thence west on U.S. Highway 84 to the Alabama-Georgia border; thence south along this border to the Florida border and following the Florida border west and south to its termination at the Gulf of Mexico. From the Mississippi-Louisiana border at the Gulf of Mexico north along this border to its junction with U.S. Interstate Highway 12; thence west on U.S. Interstate Highway 12 (including incomplete portions) to Baton Rouge, Louisiana; thence north and west along corporate limits of Baton Rouge to U.S. Highway 190; thence west on U.S. Highway 190 to junction with Louisiana State Highway 12 at Ragley, Louisiana; thence west on Louisiana State Highway 12 to the Beauregard-Calcasieu Parish border; thence north and west along this border to the Texas-Louisiana State border; thence south on this border to Texas State Highway 12; thence west on Texas State Highway 12 to Vidor, Texas; thence west on U.S. Highway 90 to the Houston, Texas, corporate limits; thence north, west and south along Houston corporate limits to junction on the west with U.S. Highway 59; thence south and west on U.S. Highway 59 to Victoria, Texas; thence south on U.S. Highway 77 to corporate limits of Corpus Christi, Texas; thence southeast along the southern Corpus Christi corporate limits to Laguna Madre; thence south along the west shore of Laguna Madre to the Nueces-Kleberg County line; thence east along the Nueces-Kleberg County line to the Gulf of Mexico.

"Buyer" shall mean a person engaged in the business of buying hides of American alligators for the purpose of resale.

"Captivity" shall mean held in a controlled environment that is intensively manipulated by man for the purpose of producing American alligators, and that has boundaries designed to prevent them from entering or leaving the controlled environment. General characteristics of captivity may include but are not limited to artificial housing, waste removal, health care, protection from predators, and artificially supplied food.

"Fabricator" shall mean a person engaged in the business of manufacturing products from American alligator leather.

"Tanner" shall mean a person engaged in the business of processing green, untanned hides of American alligators into leather.

(2) *Prohibitions.* Except as provided by permits available under paragraph (a)(3), the following prohibitions apply to the American alligator.

(i) *Taking.* Except as provided in this paragraph (a)(2)(i) no person may take American alligators.

(A) Any employee or agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by the agency for such purposes, may, when acting in the course of official duties, take American alligators without a permit if such action is necessary to:

(1) Aid a sick, injured or orphaned specimen;

(2) Dispose of a dead specimen;

(3) Salvage a dead specimen which may be useful for scientific study; or

(4) Remove a specimen which constitutes a demonstrable but non-immediate threat to human safety. The taking must be done in a humane manner, and may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(B) Any taking pursuant to paragraph (a)(2)(i)(A) must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days.

(C) Any employee or agent of the Service or of a State conservation agency which is operating under a cooperative agreement which covers American alligators with the Service, in accordance with section 6(c) of the Act

(See 50 CFR Part 81 for rules implementing a cooperative agreement), may, when acting in the course of official duties, take American alligators to carry out scientific research or conservation programs.

(D) Any person may take American alligators in the wild wherever listed under § 17.11 of this subchapter as threatened—similarity of appearance in accordance with the laws and regulations of the State in which the taking occurs, provided the following requirements are met:

(1) The hides of such alligators are only sold, offered for sale, or otherwise transferred to persons holding a valid Federal permit to buy hides, issued under paragraph (a)(3); and

(2) The meat and other parts, except hides, are sold only in the State in which the taking occurs, and only in accordance with the laws and regulations of that State.

(E) When American alligators are taken by Federal or State officials in accordance with paragraphs (a)(2)(i)(A) or (a)(2)(i)(C) the hides, meat, and other parts may be sold by their respective agencies, provided the following requirements are met:

(1) The hides are only sold, offered for sale, or otherwise transferred to persons holding a valid Federal permit to buy hides, issued under paragraph (a)(3);

(2) The hides have been tagged by the State of origin with a noncorrodible numbered tag inserted no more than 6 inches from the tip of the tail;

(3) The tag number, length of belly skin, and date and place of the specimen's taking are recorded by the State;

(4) A tag or label is affixed to the outside of any package use to ship the hides, identifying its contents as American alligator hides, indicating their quantity and State tag numbers, and providing the name and address of the consignor and consignee; and

(5) The meat and other parts, except hides, are sold only in the State where the taking occurs, and only in accordance with the laws and regulations of that State.

(ii) *Unlawfully taken alligators.* No person may possess, sell, deliver, carry, transport, or ship, by any means whatsoever, American alligators taken unlawfully.

(iii) *Import or export.* No person may import or export any American alligator, except that hides and manufactured products of lawfully taken American alligators may be imported or exported in accordance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (see 50 CFR Part 23 for rules implementing the Convention), provided that such hides bear the noncorrodible numbered tag attached by the State where the taking occurred and such manufactured products have the mark attached which was provided by the Service and affixed by the fabricator, as required by paragraph (a)(3), at the time of import or export.

(iv) *Commercial transactions.* No person may deliver, receive, carry, transport, ship, or sell, or offer to sell in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any American alligator, except that manufactured products of American alligators which have been marked in accordance with paragraph (a)(3)(iii)(C)(10) by a fabricator holding a valid Federal permit may be transported, shipped, delivered, carried, or received in interstate or foreign commerce in the course of a commercial activity, and may be sold or offered for sale in interstate or foreign commerce.

(3) *Permits*—(i) *General.* Permits are available under § 17.32 (Permits—general) of this subchapter for all of the prohibited activities referred to in paragraph (a)(2). All the terms and provisions of § 17.32 shall apply to such permits.

(ii) *Similarity of appearance.* Permits are not available under § 17.52 (Permits—similarity of appearance) of this subchapter for any of the prohibited activities referred to in paragraph (a)(2).

(iii) *Buyer, tanner, or fabricator.* Upon receipt of a complete application, the Director may issue a permit in accordance with the issuance criteria of this paragraph (a)(3)(iii) for a buyer, tanner, or fabricator, authorizing the permittee to engage in any of the prohibited activities referred to in paragraph (a)(2).

(A) *Application requirements.* Applications for permits under this paragraph (a)(3)(iii) must be submitted to the Director by the person who wishes to engage in the activities of a buyer, tanner, or fabricator. Each application must be submitted on an official application form (Form 3–200) provided by the Service, and must include, as an attachment, all of the following information:

(1) The category or categories (buyer/and/or tanner and/or fabricator) for which the permit is desired;

(2) A description of the applicant's business organization and other business organizations associated with such organization, including: a description of the physical plant; the method of operation of the business; experience, if any, over the previous five years; the names and addresses of all shareholders, partners, directors, officers, or other parties in interest in the business organization;

(3) A description, including samples, of the applicant's present or proposed system of inventory control and bookkeeping capable of insuring accurate accounting for all American alligator hides and State tags, and all hides of any other species of the Order Crocodilia dealt with by the applicant;

(4) A statement detailing any criminal or civil violations of any State, Federal, or foreign law by the applicant within the previous five years for taking or trafficking in wildlife, and if the applicant is a business organization, by any shareholder, partner, director, officer, principal, employee, agent, or other party in interest in the business organization or any other business organization associated with such business organization;

(5) A report in English of the applicant's dealings during the preceding five years with those species of the Order Crocodilia which at any time have been listed on Appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, to the extent records of such dealings are available;

(6) Foreign applicants must disclose the nature and location of all property in the United States in which the applicant has an interest; and

(7) Foreign applicants must provide the name and address of an agent located in the United States who is authorized to receive service of process for the applicant and upon whom process can be served.

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iii)(A), the Director will decide whether or not a buyer, tanner, or fabricator permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the applicant's reliability and apparent ability and willingness to maintain and disclose accurate inventory and bookkeeping records of all American alligator hides and State tags, and all hides of any other species of the Order Crocodilia dealt with by the applicant. In addition, the Director may consider the opinions and views of scientists, law enforcement officials, or other persons or organizations having expertise concerning trade in any species of the Order Crocodilia.

(C) *Special conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, permits issued under paragraph (a)(3)(iii) are subject to the following special conditions:

(1) Permittees may not buy, tan, or fabricate any American alligator hide except one which was taken, sold, offered for sale, delivered, carried, transported, or shipped in accordance with paragraph (a)(2)(i);

(2) Permittees may only sell, offer for sale, deliver, carry, transport, or ship American alligator hides to holders of valid Federal permits which authorize the buying, tanning, or fabricating of American alligator hides;

(3) Permittees may not violate any State, Federal, or foreign laws concerning any hide, part, or product of any species of the Order Crocodilia;

(4) Permittees must maintain complete and accurate inventory control and bookkeeping records in accordance with the provisions of § 13.46 of this subchapter, including the numbers of all State tags, and any permits or other documents required by the Convention on International Trade in Endangered Species of Wild Fauna and Flora or other State, Federal, or foreign law, concerning all transactions in American alligators and any other species of the Order Crocodilia;

(5) Permittees must file a written report in English with the Director on March 31 of each year concerning all transactions with American alligators and other species of the Order Crocodilia listed on Appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora during the preceding calendar year ending December 31 (such report shall include the number of hides, parts, and products by species; the supplier's name and address; and the country where taken from the wild, if known);

(6) Permittees may not transport or ship any American alligator hide, part or product unless a tag or label is affixed to the outside of any package used to transport or ship the hides, parts, or products, identifying its contents as American alligator and indicating the quantity, State tag numbers (if any), and the names and addresses of the consignor and consignee;

(7) A buyer and/or tanner must leave all State tags on the hides;

(8) A fabricator must remove, record, and return to the issuer all tags on the hides;

(9) Fabricators shall maintain complete and accurate records showing the relationship of American alligator hides processed to finished American alligator products; and

(10) Fabricators must affix, a mark provided by the Service to each product made of American alligator hides, and shall not affix such mark to products of any other species of the Order Crocodilia.

(D) *Duration of permits.* The duration of permits issued under this paragraph (a)(3)(iii) shall be designated on the face of the permit.

(iv) *American alligators in captivity.* Upon receipt of a complete application, the Director may issue a permit authorizing the permittee to engage in any of the prohibited activities referred to in paragraph (a)(2) with live American alligators which have been born in captivity or which have been lawfully placed in captivity.

(A) *Application requirements.* Applications for permits under this paragraph (a)(3)(iv) must be submitted to the Director by the person who wishes to engage in the prohibited activity in accordance with the application requirements of § 17.32(a) of this subchapter. In addition, the application must include, as an attachment, documentary evidence or other appropriate information where available, and sworn affidavits to show that the American alligators for which a permit is sought have been held in captivity and that they were either born in captivity or lawfully placed in captivity.

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iv)(A), the Director will decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, whether the information submitted by the applicant appears reliable, and the applicant's reliability and apparent ability and willingness to maintain and disclose accurate inventory and bookkeeping records of all American alligators, and any other species of the Order Crocodilia dealt with by the applicant. In addition, the Director may consider the opinions and views of scientists, law enforcement officials, or other persons or organizations having expertise concerning trade in any species of the Order Crocodilia.

(C) *Special conditions.* All permits issued under this paragraph (a)(3)(iv) shall be subject to the general conditions set forth in Part 13 of this subchapter. In addition, any permit which authorizes the taking of American alligators is subject to the following special conditions:

(1) The hides are tagged by the State where held in captivity with a noncorrodible numbered tag inserted no more than 6 inches from the tip of the tail;

(2) The tag number, length of belly skin, and date and place of the specimen's taking are recorded by the State;

(3) The hides of such alligators are only sold, offered for sale, or otherwise transferred to persons holding a valid Federal permit to buy hides, issued under paragraph (a)(3);

(4) A tag or label is affixed to the outside of any package used to ship the hides, identifying its contents as American alligator hides, indicating their quantity and tag numbers, and providing the name and address of the consignor and consignee;

(5) The meat and other parts, except hides, may be sold only in the State where taking occurs, and only in accordance with the laws and regulations of that State;

(6) Complete and accurate inventory control, bookkeeping, and other appropriate records must be maintained in accordance with the provisions of § 13.46 of this subchapter, including the numbers of all State tags, concerning any taking or transaction in American alligators; and

(7) The permittee must file a written report with the Director on March 31 of each year concerning all activities conducted pursuant to the permit for the preceding calendar year ending December 31.

(D) *Duration of permits.* The duration of permits issued under this paragraph (a)(3)(iv) shall be designated on the face of the permit.

(16 U.S.C. 1531–1543.)

Note.—The Department has determined that this rule is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: October 5, 1979.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-31495 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-55-M

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

50 CFR PART 810

Final 1979 Export Findings on the American Alligator

AGENCY: Endangered Species Scientific Authority.

ACTION: Final rule.

SUMMARY: The Endangered Species Scientific Authority (ESSA) finds that commercial export of American alligator hides legally harvested during or before 1979 will not be detrimental to the survival of the alligator or other crocodilian species. These findings are meant to satisfy ESSA's responsibilities under Article IV, paragraph 2 of the

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Federal export permits can be issued for hides only if the ESSA has made such findings of "no detriment".

EFFECTIVE DATE: October 12, 1979.

ADDRESS: Submit comments to Executive Secretary, U.S. Endangered Species Scientific Authority, 18th and C Streets N.W., Washington, D.C. 20240. Comments will be available for inspection at Room 536, 1717 H Street, N.W., Washington, D.C., 7:45 a.m. to 5:30 p.m., Mondays through Fridays except federal holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Peter C. Escherich, Staff Zoologist, Endangered Species Scientific Authority, 18th and C Streets, N.W., Washington, D.C. 20240, 202/653–5948.

SUPPLEMENTARY INFORMATION:

Background.

ESSA Proposals

On May 31, 1979 (44 FR 31584), and on August 13, 1979 (44 FR 47386), the ESSA published proposed findings under the CITES on the commercial export of American alligators taken during or before the 1979 harvest season. ESSA proposed to find that the export of certain American alligator hides would not be detrimental to the survival of the alligator or to the survival of other species of crocodilians, subject to the following conditions: (1) Foreign buyers, tanners, and fabricators must obtain licenses similar to those currently in force within the United States (50 CFR 17.42(a)). Licensees must provide access to their records and may sell to other buyers, tanners, or fabricators only if they hold Federal permits. Fabricators must permanently mark all products to indicate that they are American alligator. (2) Exports must only be allowed to buyers, tanners, or fabricators holding valid Federal licenses who are located in countries which have ratified CITES and which have not taken reservations for any crocodilians. (3) Prior to export, all hides must be indelibly marked over their entire reverse surface with identifying symbols.

July 18 Fish and Wildlife Service Proposal

On July 18, 1979, the Fish and Wildlife Service (Service) proposed to amend 50 CFR Part 17 concerning American alligators (44 FR 41894). This proposal reflected changes in domestic and international protection of the American alligator, including proposed export findings by the ESSA.

Buyer, tanner or fabricator permits.

The July 18 Service notice proposes, in part, to establish a permit system for foreign buyers, tanners and fabricators which is similar to that in force domestically. The July 18 Service notice contains the following description of the buyer, tanner, and fabricator permit system proposed:

These permits provide a highly regulated framework, whereby the activities of permit holders are closely monitored. A new special condition imposed on these permits states explicitly what formerly has been the practice. The Service has created a "closed system" wherein permittees may only engage in business with other permittees until a manufactured product is marked. While not foolproof, a number of controls are placed on permittees so that only lawfully taken American alligators enter the system, and only products from those alligators leave it. Hides tagged by the State where the taking occurred may only be sold or transferred to persons holding valid Federal permits to buy hides. No untagged hides may be lawfully sold or transferred. Once so tagged these hides retain the tags through the tanning process. Finally, products from those hides are marked by the fabricator with a label provided by the Service. Fabricators will be required to accurately document the relationship between the hides received and the finished products created from them.

Additionally, permittees must maintain complete and accurate records of dealings in the hides of reptiles of the Order Crocodilia. This would include those species most likely to be commingled with American alligators: other alligators, crocodiles, caimans, and gavials.

This system would be implemented without requiring the tanner to apply a mark on the underside of the hide in indelible ink as previously proposed (October 2, 1978, 43 FR 45513). Instead the Service will rely on the engraved label which the fabricator will attach. These labels are difficult to duplicate and are unusable if any attempt is made to remove them from lawful products and place them on unlawful ones. The indelible mark on the underside of the skin presented a number of problems. That mark is easy to duplicate, not readily seen on products which are lined with other leather, and may be shaved off in the process of fabricating finished goods.

Applications will be accepted from foreign buyers, tanners, or fabricators who wish to engage in these activities. Expanding the domestic "closed system" worldwide has several advantages. As a condition of the permit, § 13.47 allows the Service to conduct reasonable inspections of the permittee's business premises for any evidence of the commingling of illegally taken American alligator hides with legal ones. So long as the permit holder abides by the conditions of the permit, access to a reliable source of legal American alligator hides is possible. However, if the conditions of the permit are violated, the permittee is subject to the sanctions of the Act, including permit revocation. To insure jurisdiction over foreign permit holders, they would be required to appoint an agent for the service of process and to identify any property held in the United States. Appointment of an agent will enable the Service to impose civil penalties under the Act and to revoke a permit, when it is necessary, thereby removing the permittee from lawful trade in American alligators.

Export and import of the hides and manufactured products of lawfully taken American alligators would not be prohibited if conducted in accordance with CITES, as long as the hides bear the tag attached by the State where the taking occurred or the manufactured products have the mark attached which was provided by the Service and affixed by the fabricator, at the time of export or import. When the Service's mark is affixed to manufactured products, only CITES documentation would be necessary. Tagged hides, however, would still have to move within the "closed system."

In respect to the ESSA proposal of May 31, the Service did not propose, as had ESSA, the requirement that hides be indelibly marked prior to export, and that export be restricted to CITES Party countries without reservations for crocodilians.

In lieu of adopting the ESSA proposal, the Service suggested the following:

A rebuttable presumption that "no detriment" exists could be applied to the activities of buyers, tanners, or fabricators in CITES Party countries without reservations for crocodilians. In those countries, trade in crocodilians would be restricted by CITES. However, this presumption could be rebutted by evidence which indicated that buyers, tanners, or fabricators were taking actions which would preclude the continuation of a "no detriment" finding. For buyers, tanners, and fabricators in non-party countries or in party countries with reservations for crocodilians, ESSA could review individual buyers, tanners, and fabricator applications submitted to the Management Authority, together with any permit conditions proposed by the Management Authority, or could in consultation with the Management Authority make a general finding with any appropriate general conditions applicable to all buyers, tanners, or fabricators. Any appropriate general conditions necessary to satisfy an ESSA no detriment finding would be fulfilled by the Management Authority through specific conditions incorporated into the permit. A review of the permittee's compliance with these conditions could be conducted at any appropriate interval. ESSA could reopen its "no detriment" finding at any time evidence is available to indicate that reconsideration of its current finding should be undertaken. Export permits issued under Article IV of CITES would no longer be available for export to a permittee when a "no detriment" finding cannot be sustained for that permittee and the permit to buy, tan, or fabricate may be revoked.

Summary and Analysis of Comments on ESSA Proposals

Summary of General Comments

Individuals and organizations commenting on the ESSA proposals can be divided into the six categories below based upon generally shared perspectives. To expand our information base, we are considering not only comments submitted directly to the ESSA either at our July 10 hearing or separately, but also statements on our proposals given on July 16 before the House Subcommittee on Fisheries and Wildlife Conservation and the Environment. Because several useful comments were received shortly after the close of the comment period on July 30, we are considering all comments received by August 3.

IUCN. The International Union for the Conservation of Nature and Natural Resources (IUCN) commented supporting all aspects of the ESSA proposal. The IUCN stressed that tagging, hide marking, and, especially, limiting exports of alligator hides to CITES Parties without crocodilian reservations are essential to avoid adverse impact on other more endangered crocodilian species.

The Management Authority. The Director of the U.S. Fish and Wildlife Service supports the ESSA's authority to consider the effect of alligator exports on other crocodilian species when making findings on "detriment" under Article IV 2(a). Although the Service comment does not discuss the substance of the proposed ESSA findings and conditions, the Service states that the ESSA proposal "ranges beyond its appropriate purview," was made without sufficient prior consultation, proposes conditions on export that are too detailed and unnecessary, and encroaches "on the agreed responsibilities and prerogatives of the Management Authority."

State Wildlife Agencies. The States of Florid and Louisiana submitted very detailed information and comments on the ESSA proposals. Comments were also provided by Texas, Georgia, South Carolina, Alaska, Maryland, New York, Kentucky, and Wisconsin. In addition, detailed comment was made by the International Association of Fish and Wildlife Agencies (IAFWA), whose comments are supported by the Wildlife Society and the Wildlife Management Institute.

Detailed information from Florida and Louisiana on biology and management of the alligator forms the informational backbone of our findings under CITES Article II 2(a). This information was summarized in our proposed findings and will not be repeated here.

Florida and Louisiana also made detailed comments on the ESSA's proposed conditions under CITES Article II 2(b). In general, these state agencies are not opposed to the licensing of foreign buyers and tanners, but are opposed to the other conditions proposed by the ESSA. Neither state believes that potential subsidization of firms using endangered crocodilians is an appropriate basis for not allowing exports to countries that are not CITES Parties or Parties that have reserved for crocodilian species. Neither state believes that commingling of hides is a problem. Louisiana and Florida state that the ESSA has no authority to consider the effect of alligator exports on other crocodilians. Both states assert that their alligator management programs will be crippled unless export is allowed. Both states seek approval for export of hides taken before June 28, 1979. Florida and Louisiana also state that the ESSA has taken actions that should be the responsibility of the MA. The basic authority of the ESSA and the relationship of the ESSA and the MA is the primary focus of testimony by the IAFWA. The IAFWA states that the ESSA proposal exceeds its legitimate role and authority. It is said that the ESSA must limit its review to the effect of exports on alligators themselves. The IAFWA believes that the proposed ESSA condition concerning CITES Parties lacks a rational basis. In one comment the IAFWA states that the ESSA has taken on matters "properly left to those agencies and governmental bodies authorized and competent to devise regulations." In another comment, however, the IAFWA states that ESSA's export findings appear to be rulemakings.

The state agencies of Texas, Georgia and Alaska generally support the comments of Florida and Louisiana, but in much less detail; similar views are expressed by professors of wildlife management at the University of Florida and at Louisiana State University. The Maryland Wildlife Administration generally supports the views of the IAFWA.

A comment from the South Carolina Wildlife and Marine Resources Department expresses interest in the ESSA proposal, without taking a position. The Kentucky Commission of Fish and Wildlife Resources states "we commend your findings that export of certain alligator hides would not be detrimental to the survival of the species." The Wisconsin Department of Natural Resources generally supports the ESSA proposal.

The New York State Department of Environmental Conservation acknowledges "the positive and negative impacts of allowing export of legally taken alligator hides." New York "would like to be assured that export will be restricted to countries which have ratified the CITES without reservation for any crocodilians, and that re-export from cooperating to non-cooperating countries will be prevented." The comment also states that New York is considering repealing its Mason Act, which prohibits alligator trade within that state.

Organizations with an interest in the sale of raw hides. Comments were received on behalf of four organizations that have an interest in the sale of raw alligator hides: the Southeastern Alligator Association (SEAA); Miami Corporation, Louisiana; the Vermilion Corporation, Louisiana, and the Estate of J. G. Gray, Louisiana.

These organizations unanimously support alligator exports. The Estate of J. G. Gray generally supports export of hides "taken under controlled hunting conditions." The Vermilion Corporation takes a similar position. The Miami Corporation believes that ESSA findings should not hinder international trade of hides, while protecting alligators, and urges the ESSA to consider carefully the comments of the SEAA. The SEAA submitted several detailed comments and testimony. The SEAA believes that the ESSA should consider only the effect that exports may have on alligators, and leave all else to the MA. The SEAA states that the status of the American alligator is "secure." The SEAA supports the licensing of foreign buyers and tanners, but not fabricators. The SEAA also believes that tags should remain on hides until sold to a fabricator, an annual report should be required of buyers and tanners, and inspection at reasonable hours should be agreed to. The SEAA objects to other conditions proposed by the ESSA, and questions the ESSA's concern for commingling of alligator and crocodile hides, as well as possible subsidization of firms using endangered crocodilian species.

Organizations that tan hides or manufacture products from alligators. Comments were received from eight organizations that have an interest in tanning hides or manufacturing products from hides.

The Fouke Company, South Carolina, states that it holds substantial quantities of hides taken before June 28, 1979. Fouke has "reservations" concerning export of raw alligator hides, and believes that the U.S. market has not

had a "fair test" because of state restrictions, now lessening, and because of delays in obtaining federal permits. Fouke supports requiring tanning before export.

Steven Newman of Steven Newman Tannery Inc., New Jersey, testified that tanning or fabrication of alligator hides before export will facilitate enforcement. He stated that there is intrinsic U.S. demand for alligator hide, but state laws and consumer misinformation hold down the domestic hide price. Mr. Newman stated that his firm can process high quality finished hides and that he is currently tanning hides for Gordon-Choisy. He believes that tanning and manufacture of alligator products in the U.S. is economically best for the national economy. Disbrok Trading Company, New Jersey, similarly states that U.S. tanners and hide finishers should be given "first priority in purchase of these [alligator] skins." Columbia Impex Corporation, New York, a reptile product dealer, states that exports should be banned, than re-opened after the domestic market is saturated.

Gordon-Choisy of France, represented by Robert Nathan Associates, and King International Associates, a New Jersey company associated with Gordon-Choisy, submitted several comments. A description is given of French governmental procedures for crocodilian trade. It is suggested that the U.S. Fish and Wildlife Service should station agents overseas to inspect tanners and manufacturing operations. The comments support a tagging requirement, but oppose marking of hides. Limiting exports to CITES Parties without crocodilian reservations is said to be contrary to the spirit of the CITES. Restrictions by the ESSA are said to be harmful to alligator conservation, because the U.S. market is said to be not as strong as that of Europe.

Economic Consulting Services Inc. submitted a detailed comment on behalf of the International Leather Goods, Plastics and Novelty Worker's Union, AFL–CIO (ILG) which represents workers in handbag factories throughout the United States. The ILG is opposed to the export of alligator hides unless the hides can be sold freely in the U.S. and are exported only to CITES Parties, on the grounds that the domestic handbag industry would be damaged. ILG states that most handbag manufacturers are in the metropolitan New York area, with a labor force of 65 percent women and three-fourths "black or of Hispanic origin." ILG states that import of reptile leather handbags increased 20 fold between 1972 and 1978. However, ILG states that domestic manufacturers are "devoting increased attention" to reptile leather handbags, and in New York ILG estimates at least 35 firms employing more than 700 people depend mainly on the production and sale of reptile leather products.

Two New York City exotic leather product designers or manufacturers, Hagen Company and Judith Leiber, Inc., state that quotas should be placed on alligator exports to ensure a sufficient supply of hides domestically.

Conservation Organizations. Comments were submitted by four individual scientists associated with international efforts to conserve crocodilian species and by nine private organizations concerned wholly or in part with crocodilian conservation.

The Chairman of the IUCN/Survival Service Commission Crocodile Specialist Group, Dr. Howard Campbell supports the ESSA proposal to approve export, but emphasizes that exports should be limited to CITES Parties without reservations for crocodilian species. James Powell, a former member of the same group, with field experience studying several crocodilian species, states that alligator hide export should be disallowed because it may be detrimental to other crocodilian species even if the proposed ESSA conditions were adopted. Tony Pooley, of the St. Lucia Crocodile Center, South Africa, who co-authored a survey of African crocodiles published by IUCN in 1972, and is in the process of updating that survey, discusses the rapidly declining status of crocodiles in Africa and concludes:

> Thus I find it extremely difficult to believe that either *C. cataphractus* or *O. tetraspis* populations in any one country have grown to the extent that it is possible to allow exploitation. I also find it hard to believe the statement by Grawitz [of Gordon-Choisy] that any one country has sufficient proofs of control and management. What is very clear is that due to the overall decline in populations of *C. niloticus*, more attention is being paid to the other species as a source of hides.

Wayne King, Director of the Florida State Museum, states that "the highest price ever paid for American alligator hides (i.e.—$21.00 per foot) was paid by a U.S. company in 1977." Dr. King states that the U.S. market will be saturated until the metropolitan states (e.g. New York) allow the sale of alligator hides. He also states that high quality tanning and manufacturing is possible in the U.S. Dr. King believes that alligator hides should be exported only to CITES Parties without reservations for any crocodilian species. TRAFFIC (USA) provided detailed information on crocodilian trade and "strongly" supports the ESSA proposals.

The New York Zoological Society "agrees with and fully supports" the ESSA proposal. The Environmental Defense Fund also supports the ESSA proposal, and gives a legal analysis in support of the ESSA's authority to consider the impacts of alligator exports on other crocodilian species and to allow export permits to be issued only on certain conditions. The Natural Resources Defense Council provided a legal analysis primarily on the authority of the ESSA. NRDC concludes that the ESSA is responsible for determining under what conditions export of an Appendix II species is to be allowed, and that in the case of an "irreconcilable conflict" with the MA, the ESSA's position has the "force of law." NRDC states that any alteration of this relationship would violate international law. NRDC also believes that the ESSA may consider the impact of trade in alligator hides on trade in other species of crocodilians listed on Appendices II or I.

The National Audubon Society also primarily addressed the authorities of the ESSA, stating that the ESSA:

> Was established to effectively deal with U.S. responsibilities to the treaty. ESSA is composed of representatives of various federal agencies and clearly was designed to give the body the essential broad perspective in dealing with management decisions with international implications. ESSA functions well in this capacity and should continue to do so.

In addition, National Audubon supports the ESSA proposal to limit alligator export to CITES Parties without reservations for crocodilian species, as well as the other ESSA proposals.

Florida Audubon Society (FAS) strongly supports limiting alligator exports to CITES Parties without reservations, supports licensing foreign "merchants," and supports tanning and marking of all hides prior to export, except for hides taken before June 28, 1979. FAS believes that pre-June 28 hides should be exportable. FAS states that profit from alligator harvest is not a factor in the preservation of Florida wetlands. FAS also states that the ESSA proposals are within ESSA's authority, and the "ESSA is clearly the chief instrument whereby the responsibilities of the U.S. Government to the CITES treaty are carried out."

The Defenders of Wildlife and the Fund for Animals testified that the ESSA proposals are not adequate to meet the requirements of the CITES. The Fund for Animals focuses primarily on what it considers to be inadequate enforcement of the CITES; Defenders of

Wildlife believes that re-export of alligator hides from Parties to non-Parties must be prevented.

R. Howard Hunt, Department of Herpetology, Atlanta Zoological Park, is opposed to any export of alligator hides, but "applauds" the efforts of Louisiana and Florida in bringing back the alligator from "the brink of extinction." George Campbell, Chairman, S.W. Florida Regional Alligator Association, is opposed to any alligator exports, does not believe that the alligator has made a "comeback," and believes that export would threaten other crocodilian species.

Primary Issues Raised in Comments

Should the ESSA make findings on "detriment" with respect to the effect of alligator exports on other Appendix I and Appendix II crocodilian species as well as on alligators themselves?

Fundamental authority. Most comments, including that of the Management Authority, support or accept the authority of the ESSA to make findings on detriment with respect to the effect that alligator exports may have on other Appendix I or Appendix II crocodilian species, as well as the effect on alligators themselves. However, this authority was challenged by the states of Louisiana, Florida and Texas, the International Association of Fish and Wildlife Agencies, joined by the Wildlife Management Institute and the Wildlife Society, the Southeastern Alligator Association, the Miami Corporation, and Professor Robert Chabreck at Louisiana State University. These comments challenge the ESSA's authority to consider effects on species other than the species that is the subject of an application, and challenge whether Appendix I species can be the subject of protection under CITES Article II 2(b) listings.

We have consulted on this matter with the legal offices of the Interior and State Departments. In general, we believe that the CITES does authorize the ESSA, through the FWS, to place conditions or restrictions on the export of species included in Appendix II under CITES Article II 2(b) in order to bring trade in certain other Appendix I or Appendix II species under effective control. In our opinion such conditions or restrictions are properly imposed through ESSA findings on "detriment" under CITES Article IV 2(a) and may be established with respect to the potentially detrimental effect that exporting specimens of the species in hand may have upon certain other species whether or not the latter are located in the country of export.

We recognize that this interpretation of CITES Article II 2(b) and Article IV 2(a) may not be apparent from a literal reading of these provisions. Article II 2 states:

2. Appendix II shall include:

(a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and

(b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.

Article IV 2 states:

2. The export of any specimen of a species included in appendix II shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:

(a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;

(b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and

(c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.

Application to Appendix I species. A literal reading of Article II 2(b) may suggest that species are to be listed under that provision in order to control trade in other Appendix II species only; i.e., those referred to in sub-paragraph (a). However, the CITES Parties have in practice placed Appendix I and Appendix II species within the scope of protection conferred by Article II 2(b) listing. Furthermore, this practice is compelling in light of the purposes and policies of the CITES.

The practice of listing species in Appendix II in order to control trade in Appendix I species was followed at both the First and Second Meeting of the Conference of the CITES Parties.

At the First Meeting in Berne, Switzerland, November, 1976, the issue arose with respect with respect to a proposal to list the African elephant on the CITES appendices. The Asian elephant was already included in Appendix I. Canada proposed to list the African elephant species in Appendix I and Switzerland proposed to list the species in Appendix II. Canada gave the following justification for its proposal (Proc. First Meeting Conf. Parties, p. 220):

(a) hunting of this species had either been prohibited or is very strictly regulated in the majority of African States in which the species occurs;

(b) the majority of elephant tusk carvings that are sold throughout the world are produced in the Far East (Hong Kong, Singapore, etc.). Once carved, it is, for practical purposes, impossible to distinguish between small carvings made from African elephant ivory (*Loxodonta africana*) and Indian elephant ivory (*Elephas maximus*). Thus controls over any illegal trade in Indian elephant ivory are nonexistent.

The United States supported the Swiss proposal, stating as the basis for its position:

As pointed out in the Canadian proposal justification, most of the African elephant ivory (both legal and illegal) is transported to Asia for processing and manufacture. This increases the already acute problem of distinguishing African elephant ivory from that of the already Endangered Asian elephant. At the present time, this similarity-of-appearance problem is the only clearly justifiable reason for including the African elephant on either of the first two Appendices. Article II, paragraph 1. [*sic*] (b) clearly provides that this type of listing should be on Appendix II, not Appendix I. Thus the U.S. should strongly support the Swiss proposal as one of the more important amendments offered, but oppose the Canadian proposal as biologically unsound (U.S. Position Paper, p. 30).

The CITES Secretariat also supported the Swiss proposal and the Canadians acceded to the Swiss proposal, which was adopted.

The Berne criteria for addition to Appendix II ratified this practice by establishing the following policy:

Genera should be listed [in Appendix II] if some of their species are threatened [i.e., are included in or would qualify biologically for Appendix I] and identification of individual species within the genus is difficult. The same should apply to listing any smaller taxa within larger ones (Conf. 1.1, 5.11, 1976).

At the Second Meeting in San Jose, Costa Rica, March, 1979, several taxa were acknowledged to be included in Appendix II, in part, to protect Appendix I species or populations. For example, the United States proposed to the Parties that the puma, *Felis concolor*, in the U.S. and Canada:

Except for the two endangered subspecies, should be annotated to indicate that [it] is included to effectively control trade in other species (particularly other populations or subspecies of *Felis concolor*) (Secretariat notification 24 November 1978).

Although the Parties did not accept formal annotation of the appendices the Parties agreed that these U.S. and Canada puma populations were included on Appendix II pursuant to Article II, paragraph 2(b) of the CITES (Plen. 2.16, p. 3). The listings of all Cetacea and Falconiformes in Appendix

II, except those in Appendix I, were based partly on the effect that trade in one species may have on another, and were clearly intended to protect *all* other affected species of the Orders, whether on Appendix I or II.

In addition to established practice of the Parties, listing species in Appendix II to protect those in Appendix I is compelling in light of the purposes and policies of the CITES and the purpose of Article II 2(b) in particular. The paramount purpose of the CITES is to prevent extinction caused by international trade. Hence any trade in Appendix I specimens is to be subject to particularly strict regulation. Trade in Appendix II specimens is to be strictly regulated, but not so strictly as Appendix I. The purpose of Article II 2(b) of CITES is to prevent trade in certain species from endangering others. Appendix I species are more likely to be harmed by trade in other species than are Appendix II species, because of the more vulnerable status of the former. Article II 2(b) expressly provides for listing species on Appendix II in order to control trade in other Appendix II species. Article II 2(b) must be interpreted as applying also to Appendix I specimens, or the purpose of that provision will fail.

Findings on "detriment" with respect to control species. Article IV 2 of the CITES does not distinguish on its face between those species included in Appendix II because of some measure of threat to their own survival (Article II 2(a)) and those species included in order to protect other species (Article II 2(b)). Article IV 2 simply says that "an export permit shall only be granted when . . . a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species." However, it is not rational to base approval of export of a species solely on its own biological status when it was listed to protect other species, and it is compellingly rational to evaluate the potential effect of export on the species meant to be protected. The ESSA interprets Article IV 2 so that permit findings on detriment are made with reference to the species meant to be protected—whether it is the traded species itself (Article II 2(a)), other species that may be affected (Article II 2(b)), or both, as for the American alligator.

This critically important interpretation has been considered for over a year. The ESSA formally recommended the policy to the Fish and Wildlife Service on August 31, 1978. After extensive discussion in several public and interagency meetings, the Fish and Wildlife Service adopted the interpretation as a U.S. position for the second meeting of the conference of the CITES Parties, held at San Jose, Costa Rica in March, 1979. The interpretation was accepted by the parties and the need to state the purpose of listing was embodied in one of the conference documents (Com. 2.12).

In the case of the American alligator, the Fish and Wildlife Service has made its position very clear. In its notice of final determinations of U.S. proposals to amend the appendices, the Fish and Wildlife Service stated:

> "the Service has determined to support the proposal to transfer the alligator from Appendix I to Appendix II, and to seek agreement by the Parties that it be included in Appendix II both because it may become threatened with extinction unless trade is regulated and because trade in it must be regulated in order to effectively control trade in other listed species (44 FR 9693, February 14, 1979)."

Following the March 1979 meeting in Costa Rica, the Fish and Wildlife Service published a notice of decisions by party nations on proposals to amend the CITES appendices (44 FR 25480, May 1, 1979). This notice indicated that the American alligator would be transferred to Appendix II effective June 28, 1979, for the purpose of controlling trade in other crocodilian species as well as to protect American alligators.

On this point, the Service notice states:

> The United States obtained agreement from the parties that official recognition of the basis for listing was important. It serves as guidance to Scientific Authorities in making their findings on whether or not trade is detrimental to the survival of the species. If a species is listed for purposes of control, such findings would be made in terms of the effect that trade in the control species would have on other species included because of threat.

Roles of the ESSA and MA. Aside from basic questions of federal authority to consider the effect of alligator exports on other crocodilian species, several comments address the roles of the ESSA and the MA.

As stated previously, a letter from the Director of the U.S. Fish and Wildlife Service states that the ESSA proposal "ranges beyond its appropriate purview," was made without sufficient prior consultation, proposes conditions that are too detailed and unnecessary, and encroaches "on the agreed responsibilities and prerogatives of the Management Authority." The IAFWA states that the ESSA "has taken on matters properly left to those agencies and governmental bodies authorized and competent to devise regulations," by implication the MA. The state of Louisiana states that "ESSA should leave management decisions to the Management Authority and stick to their charge of determining if certain actions are detrimental to the survival of a species." The state of Florida comments that

> the ESSA has infringed upon the Management Authority's area of responsibility in rulemaking to provide for control and permitting procedures for commercial export of wildlife. We think this usurpation of authority contravenes both the text of the Convention and the Memorandum of Agreement between the ESSA and Fish and Wildlife Service.

The state of Texas comments that "Article VI [of the CITES] specifically states the marking requirement is the prerogative of the management authority, not the ESSA." The Southeastern Alligator Association believes that it should be "clearly understood that at some point final authority on the matter rested with the M/A when considering the provisions for issuance of export permits."

Four comments state that the ESSA proposals are within the scope of our authority as opposed to the MA. The Florida Audubon Society and the National Audubon Society generally state that the ESSA is the lead agency on matters concerning export. The Environmental Defense Fund cites cases in support of ESSA's authority to issue rules concerning its activities and to affix conditions on its findings. The Natural Resources Defense Council gives a detailed analysis of authorities under the CITES, in support of ESSA's authority.

As previously discussed, two determinations are required under CITES Article IV before export permits can be issued for non-living specimens: the ESSA must determine that export will not be detrimental to survival of the species and the MA must be satisfied that the specimen was legally obtained. These provisions establish the fundamental authorities and duties of both the ESSA and MA concerning the issuance of export permits.

The ESSA is charged with judging whether export will not be detrimental to survival. Both the ESSA and the MA have concluded that ESSA findings on "detriment" are to be made with respect to the species meant to be protected: the traded species itself for listings under Article II 2(a) or *other* species for listings under Article II 2(b). Thus, judgments on detriment concerning impact of trade on other species, for listings under Article II 2(b), are fundamentally the ESSA's, just as are judgments on detriment concerning effect on the traded species itself if the

listing is under Article II 2(a). Unless the ESSA finds "no detriment" based upon review of the appropriate species, permits cannot be issued by the MA. Furthermore, the U.S. Supreme Court has decided that:

"* * * the power to disapprove necessarily includes the lesser power to condition on approval." *Southern Pacific Company* v. *Olympian Dredging Company*, 260 U.S. 205 (1922).

Thus, the ESSA is authorized to affix any conditions to findings on detriment which the ESSA considers necessary to make a finding in favor of export. The MA is not obligated to fulfill these conditions, but cannot issue export permits if the conditions are not fulfilled.

The ESSA/MA Memorandum of Understanding incorporates these principles. Although several comments suggest that the "general advice" and associated conditions referred to in the MOU must not be specific, this is not what the MOU states. Paragraph 1 of the MOU states procedures whereby the ESSA would review *individual* permit applications. Paragraph 2 states:

2. *Notwithstanding paragraph 1, the ESSA may in certain circumstances make findings on detriment to the survival of a given species applicable to an entire class of export permits.* Such *general advice* will normally be given when:

(a) Information upon which the determination must be based is of such a nature that it is unlikely to be developed in the course of material submitted with any particular application;

(b) The scale of exploitation of the species in question is significant;

(c) It would be administratively convenient to have the advice formulated on the basis of a class of permits rather than on a permit-by-permit basis [emphasis added].

The plain meaning of paragraph 2 is that "general advice" refers to advice "applicable to an entire class of export permits." This interpretation is reflected in the practice of the ESSA before and after the MOU was adopted. The ESSA has made findings for each affected state, including conditions that require pelts to have been taken in the State during the harvest season and that limit the number of pelts exported to a specific number. "General advice" does not and was never intended in our opinion to refer to advice that is not specific, as has been suggested.

The MOU does commit the ESSA to limiting its conditions to those that are "essential to a positive finding" and we have agreed to "leave to the MA the particular means by which the conditions are fulfilled." Such a provision recognizes that the ESSA should not make findings on detriment conditional unless the ESSA genuinely believes such conditions are necessary, and should leave the details of implementing its conditions to the MA, which is responsible for enforcement and the mechanics of permit administration under the CITES.

The ESSA will conform to this obligation: although conditions on our findings may be specific, we will not finalize any conditions that we do not believe to be necessary for a positive finding, and we will leave implementation of any conditions to the MA. Furthermore, the MA may refrain from issuing permits if it does not believe that our conditions can be fulfilled. However, the ESSA is not limited to considerations that are "biological" or "general" in findings on detriment. We are obligated by the CITES to make a comprehensive judgment on detriment before export permits may be issued. Although we will coordinate and rely upon the expertise of the MA to the extent possible, we must consider all information that is relevant to a judgment on detriment and must affix any conditions that we believe are necessary for a positive finding if we make such a finding at all. We will consult with the MA on any such conditions and will seek to finalize conditions which leave the MA with the most discretion we feel possible in fulfilling the purpose of the conditions. If we make an error in judgment on whether export is not detrimental, however, then we are responsible for that error, whether or not a dispositive factor in our error was considered to be "management" or "science." We do not believe that our proposal encroaches upon the prerogatives of the MA, and we are satisfied that the final findings published here are within the scope of our authority.

Will exports not be detrimental to the survival of the American alligator?

With the exception of George Campbell, Chairman, S.W. Florida Regional Alligator Association, no comments suggest that export of alligator hides legally taken in 1979 or previously may be detrimental to the survival of the American alligator itself. Although Mr. Campbell states that the alligator has not made a "comeback," there is a substantial body of information to the contrary summarized in our May 31 proposal. That proposal also documents the intensive management and conservative harvest practices currently applied in Florida and Louisiana. No comment objects to our August 13, 1979, proposal to approve export of alligator hides legally taken before June 28, 1979 (44 FR 47386), and several comments strongly support this proposal.

Can alligator hides be exported without detriment to the survival of other crocodilian species?

Comments from James Powell, former IUCN Crocodile Specialist Group Member; George Campbell, S.W. Florida Regional Alligator Association, R. H. Hunt, Atlanta Zoological Park, and the Fund for Animals state that alligator export must be prohibited in order to protect endangered crocodilian species. These statements are generally based upon perceived difficulties in enforcement of the CITES. The majority of comments support or are not opposed to alligator hide export, provided that the export is subject to some degree of regulation.

We recognized that the degree of enforcement of the CITES varies among the Parties and may not be so effective as is ultimately desirable. Such limitations in enforcement raise genuine and grave questions concerning the effectiveness of trade regulation under the CITES, including the effectiveness of any conditions affixed to ESSA approval of export. Nevertheless, we believe that it is important to proceed in a manner that will tend to reinforce the CITES system rather than to disregard it. Consequently, for the present we will presume that CITES restrictions imposed by the United States, including any condition affixed by the ESSA to its findings on detriment, will be enforced. If experience shows this presumption erroneous, then we will reconsider. We therefore concur with most commentators that alligator hides can be exported without detriment to the survival of other crocodilian species, provided that export is regulated.

What conditions, if any, should be required for a finding that alligator exports will not be detriment to the survival of other crocodilian species?

The ESSA proposed three conditions in our May 31 notice that would be intended to assure that alligator exports will not be detrimental to the survival of other species of Appendix I or II crocodilians.

Licensing of foreign buyers, tanners and fabricators. In our May 31 notice, the ESSA proposed that foreign buyers, tanners, and fabricators must be subject to U.S. licensing requirements similar to those currently in force within the United States. This proposal was intended to and does in fact complement a proposal made by the Fish and Wildlife Service on July 18, 1979 (44 FR 41894), under the Endangered Species Act of 1973. The Service new refers to such documents as "permits" rather

than "licenses", but we are both referring to the same documentation regardless of the term applied.

The ESSA proposal to require licensing of foreign buyers and tanners is supported or not opposed by the comments.

ESSA's proposal to require licensing of foreign fabricators is opposed by Louisiana, Florida, and the Southeastern Alligator Association (SEAA). Louisiana believes that the requirement is "impractical." Florida "sees no point" in the requirement, stating that they "understand that the Fish and Wildlife Service will shortly require that all alligator skins be marked on the reverse surface at the end of the tanning process." The SEAA states that licensing of fabricators is of "questionable benefit" in the United States, has not "worked very practically," and "the system itself has not been very expedient for these manufacturers to obtain the permit." Licensing of fabricators is supported by the IUCN, New York Zoological Society, Florida Audubon Society, Environmental Defense Fund, Defenders of Wildlife, TRAFFIC (USA), National Audubon Society, and the Fund for Animals.

The rationale for licensing fabricators is essentially the same as for buyers and tanners: to determine what species of crocodilians these firms are using and through the license to ensure that alligator hide exports to licensees do not contribute to detrimental taking of other crocodilian species by the licensees. We recognize that licensing may impose some administrative burden on the industry. Nevertheless, fabricators represent major commercial operations that may be dealing in Appendix I species and may be supported in these activities by commerce in alligator hides. The ESSA probably would not have proposed such an administratively detailed condition if the Fish and Wildlife Service had not informed us that it would be proposing to license buyers, tanners, and fabricators. In the Service's proposal, the ESSA is invited to review such license applications or to establish "appropriate general conditions" applicable to all licensees (44 FR 41890). We are prepared to work through the licensing system as suggested by the Service, and we will defer to the Service on the question of their ability to administer the licensing of foreign fabricators.

Marking of the reverse surface of hides. In our May 31 notice, the ESSA proposed that prior to export all hides must be indelibly marked over their entire surface with identifying symbols.

This proposed condition is opposed by the states of Florida, Louisiana, Georgia, Texas, Alaska, the Southeastern Alligator Association and King International Associates and Gordon-Choisy. The proposed condition is supported by the IUCN, Wayne King, Director, Florida State Museum, New York Zoological Society, Florida Audubon Society, Environmental Defense Fund, Defenders of Wildlife, TRAFFIC (USA), National Audubon Society, and the Fund for Animals.

Such a marking requirement could facilitate identification of legally exported alligator hides and products, at the time of export and in subsequent commerce. Hide marking could be particularly useful when small pieces are involved, as in watchbands. Unlike licensing and recordkeeping, the presence or absence of marks could be verified immediately by port inspectors.

There are several difficulties with such a marking requirement that have been raised in comments. Hides must be partially tanned before marking. Only a few processors in the United States apparently are capable of such marking at this time. Whether the quality of product meets international standards is debated in the comments. In addition, the inner surface of hides apparently is typically shaved by fabricators to make certain products, and for most products the inner surface would be lined. Furthermore, tagging systems now used by the states of Louisiana and Florida for alligator hides are apparently reliable and no allegations to the contrary have been substantiated; hide marking may add little to the effectiveness of a licensing system coupled with tagging.

Restriction to CITES Parties. In our May 31 notice, the ESSA proposed that exports must be allowed only to licensed buyers, tanners, or fabricators located in countries which have ratified CITES and which have not taken reservations for any species of crocodilians.

This ESSA proposal is opposed by the states of Louisiana, Florida, Texas, Georgia and Alaska, the International Association of Fish and Wildlife Agencies, the Southeastern Alligator Association, and the firms of King International Associates and Gordon-Choisy. The proposal is supported by the IUCN, the state of New York, the International Leather Goods Union (AFL–CIO), Wayne King, Director, Florida State Museum, Howard Campbell, Chairman, IUCN-Survival Service Commission Crocodile Specialist Group, New York Zoological Society, National Audubon Society, Florida Audubon Society, Environmental Defense Fund, TRAFFIC (USA), and the Defenders of Wildlife.

Other than issues of authority discussed elsewhere, opponents of this condition state that the volume of alligator exports is too small a proportion of the world trade to stimulate or contribute to the use of endangered crocodilian species in these countries. These comments also state that tagging requirements and record keeping by licensees should ensure against commingling of alligator hides with those of other crocodilians.

Although the majority of the 52 CITES Parties have not reserved for any crocodilians, the major crocodilian processing or trading countries either have taken reservations for endangered Appendix I crocodilians (France, Federal Republic of Germany, Switzerland) or are not Parties (Italy, Spain, Japan).

It is true that the 10,000 estimated potential alligator hide exports this year is only one-half of one percent of the total 2,000,000 hides estimated to be traded annually. However, these figures do not accurately convey the potential impact of alligator exports. First, alligator hides are more valuable than many other traded hides (e.g., caiman). Second, certain individual firms might buy a proportion of these 10,000 hides that is several-fold greater than one-half of one percent of their business. Third, the number of alligator hides harvested and potentially exported is likely to increase substantially over the next several years and represents a stable, well-managed and therefore attractive supply. Finally, it should be noted that even a very small contribution to the profits of a business may have a significant effect upon its success.

One very significant question raised by several comments is that access to the use of alligator hides may decrease the use of endangered crocodilians by firms in non-Parties or those with reservations. The accuracy of this theory depends upon whether and to what extent the demand for these crocodilian products is satisfied and to what extent alligator hides may serve as a substitute. The state of Florida has offered an alternative to the ESSA's proposed condition which addresses this factor:

> * * * we propose export be allowed but on a provisional basis. Nonsignatory nations or those which have taken reservations would have the option to begin substituting alligators for other species. This alternative would also provide an opportunity for an objective and thorough evaluation of the impact of reintroducing alligators in world trade. Some buyers would opt for a more accessible and steady supply of skins than

continue to depend on skins from endangered species which, by definition, are in limited supply. Alligators should be less expensive eventually and buyers would at least have the opportunity to mute current criticisms by dealing in a species whose status was secure.

Final Service Regulations

The Service is publishing final American alligator regulations elsewhere in this issue of the **Federal Register**. These regulations incorporate provisions which give the ESSA assurance that export of alligators legally taken in 1979 or before will not be detrimental to the survival of the alligator or other crocodilian species. In this regard the regulations require foreign as well as domestic individuals and firms to have federal permits in order to buy, tan or fabricate American alligator hides. Permittees may sell hides only to other such permittees. Fabricated alligator products must be marked with an "alligator" seal to be used only for alligator products. Permittees must keep complete and accurate inventory control and bookkeeping records concerning all transactions in species of the Order Crocodilia. Permittees must report annually on any transactions in Appendix I crocodilian species and must report in their initial permit applications on all transactions in Appendix I crocodilian species during the previous 5 years, to the extent this can be determined. In addition, permittees may not violate any state, federal, or foreign laws concerning any hide, part or product of any species of the Order Crocodilia. All buyer, tanner, fabricator permit applications will be transmitted to the ESSA for review and comment.

Final ESSA Findings on the Commercial Export of American Alligator Hides Taken in 1979 or Before

In light of comments on our proposal of May 31 and in light of the final alligator regulations promulgated by the Service elsewhere in this issue of the **Federal Register**, the ESSA finds that export of American alligator hides taken legally in Florida and Louisiana during or before 1979 will not be detrimental to the survival of the American alligator in either state and will not be detrimental to the survival of other species of crocodilians.

The finding that exports of alligator hides taken in 1979 or before will not be detrimental to the survival of the alligator is overwhelmingly supported by the evidence considered and the majority of comments received.

The ESSA is not requiring as conditions on our finding with respect to other crocodilian species that alligator hides be marked on the inside surface before export or that exports be restricted to CITES Parties without reservations for any crocodilian species. Our reservations concerning the need for marking are stated in the analysis of comments on that proposed condition.

The ESSA remains concerned over the possible effect that alligator exports may have on other crocodilian species. Nevertheless, the nature of such an effect is uncertain. Commingling may occur between the hides of other crocodilian species and alligator hides but the permit system established by the Service is designed to minimize this problem. The possibility remains that access to alligator hides may subsidize firms that use other crocodilian species to their detriment. However, as stated by several comments, it is possible that access to alligators would reduce the demand for a supply of endangered crocodilian species. The recordkeeping and reporting requirements established by the Service for crocodilian species should enhance substantially our ability to assess this problem. In addition, the Service regulations prohibit permittees from violating any state, federal *or foreign law* concerning any hide, part or product of any crocodilian species. Thus the Service regulations extend to foreign permittees the same responsibility for upholding the laws of other nations that is currently required of persons subject to the jurisdiction of the United States by the Lacey Act, 18 U.S.C. 43. Coupled with the recordkeeping and reporting requirement of the Service regulations, this requirement satisfies the ESSA that export of alligators taken in 1979 or before will not be detrimental to the survival of other crocodilian species. The ESSA will review all available information including any new information obtained from permittees, before establishing findings for the 1980 harvest.

Promulgation of ESSA Findings

Accordingly, Part 810, Chapter VIII, Title 50 of the Code of Federal Regulations is amended to add an Annex B to read as follows:

Annex B—American Alligator

States for which the ESSA has found that export of the indicated season's harvest will not be detrimental to the survival of the American alligator and will not be detrimental to the survival of other crocodilian species.

1979 and Previous Harvest: Florida, Louisiana.

For further information see 44 FR 31583, May 31, 1979.

Publication of these final findings has been approved by the Members of the Endangered Species Scientific Authority.

Dated: August 31, 1979.

William Y. Brown,

Executive Secretary.

[FR Doc. 79-31496 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-55-M

federal register

Friday
October 12, 1979

Part V

Department of the Interior

Office of the Secretary

Requirement for Equal Opportunity During Construction and Operation of the Alaska Natural Gas Transportation System

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 34

Requirement for Equal Opportunity During Construction and Operation of the Alaska Natural Gas Transportation System

AGENCY: Department of the Interior.

ACTION: Proposed Rulemaking.

SUMMARY: This proposed rulemaking will institute procedures to carry out the requirements of section 17 of the Alaska Natural Gas Transportation Act and Condition 11 of the President's *Decision*. Section 17 and Condition 11 require Federal officers and agencies to take affirmative action to ensure that no person will be excluded on the grounds of race, creed, color, national origin or sex from participating in any activity connected with the construction and operation of the Alaska Natural Gas Transportation System.

DATES: Comments should be submitted by December 12, 1979. In addition, seven public meetings will be held on this proposed rulemaking to allow the public to address the proposed rulemaking and all other relevant issues raised at the meetings.

ADDRESSEE: Comments should be addressed to: Office for Equal Opportunity, Department of the Interior, 1800 C Street, NW., Washington, D.C. 20240.

Comments will be available for public inspection in Room 1324 of the above address during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday. Comments must be received on or before December 12, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Edward E. Shelton, Director, Office for Equal Opportunity, Department of the Interior, 202–343–5693.

Public meetings on these proposed rules will be held at seven locations. The meetings will cover the issues addressed in the proposed rules and all other relevant issues raised at the meetings.

The seven public meetings will be held at the following locations on the dates indicated, beginning at 9 a.m.

1. November 5, 1979, RM 286, 219 South Dearborn Street, Chicago, Illinois.
2. November 6, 1979; RM 13216 (13th Floor), Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102.
3. November 7, 1979; RM 2866, 915 Second Avenue, Seattle, Washington.
4. November 13, 1979; Federal Building, Conference RM C–114, 701 C Street, Anchorage, Alaska 99513.
5. November 14, 1979; Noel Wein Public Library, 1215 Cowles Street, Fairbanks, Alaska.
6. November 15, 1979; North Slope Meeting Hall, Barrow, Alaska.
7. November 27, 1979; Auditorium at C Street Entrance, Department of the Interior, 1800 C Street, NW., Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: Under section 17 of the Alaska Natural Gas Transportation Act of 1976 (ANGTA) (15 U.S.C. 719), Federal officers and agencies are required to take affirmative action to assure that no person will be excluded, on the grounds of race, creed, color, national origin, or sex, from participation in any activity connected with the construction and operation of the Alaska Natural Gas Transportation System (ANGTS). Federal officers are authorized to implement and enforce section 17 through the promulgation of rules, as may be necessary. Condition 11 of the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (Decision), approved and adopted 91 Stat. 1268 (1977), which supplements the requirements of ANGTA, directs the companies that are authorized to construct and operate the system to develop plans to ensure that discrimination on the basis of certain prohibited grounds does not occur. The plans developed must be approved by the Federal Inspector, who is the officer designated by section 7 of ANGTA, and Reorganization Plan No. 1 of 1979, to monitor and enforce compliance with terms and conditions of all Federal authorizations issued to the companies.

The scope of section 17 is broad. The language is almost identical to the language of section 403 of the Trans-Alaskan Pipeline Act (30 U.S.C. 185), which was passed in 1973 to facilitate the building of the Alaskan oil pipeline. The legislative history of section 403 suggests that Congress intended to insure that minorities and minority business enterprises received an opportunity, to the maximum extent possible, to participate in the construction, operation, and maintenance of the oil pipeline. From the remarks of Representative Yvonne Braithwaite Burke, the sponsor of section 403, it appears that the policies of Executive Order 11246 which prohibits discrimination by Federal contractors, and its implementing regulations, as well as the policies of the regulation prohibiting discrimination in Federal procurement programs and encouraging the use of minority business enterprises in those programs, were intended to apply to activities relating to the construction of the oil pipeline. In addition, the legislative history shows that great flexibility was intended to be authorized in the range of enforcement mechanisms and sanctions that were to be employed to insure compliance with requirements under section 403. Representative Burke's remarks indicated that the enforcement provisions of Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d and 2000e), and Executive Orders 11246 and 11625 were to be available under section 403. Since the language of section 17 ANGTA is identical, in the most relevant aspects, to the language of section 403 of the Trans-Alaska Pipeline Act, it is reasonable to assume that Congress intended the scope of section 17 to be as broad as the scope of section 403.

There are seven different Federal agencies that must grant authorization before action can go forward to construct the system: the Department of Interior, the Federal Energy Regulatory Commission, the Corps of Engineers, the Environmental Protection Agency, the Department of Transportation, the Department of Agriculture, and the Department of Energy (the authorizing agencies). In order to coordinate the efforts of all agenices charged with the responsibility to insure that improper discrimination does not occur in the construction and operation of the system, and to avoid conflicting or unduly burdensome regulation, the agencies have worked together in formulating and drafting a uniform set of requirements to implement section 17 and the President's *Decision*. Because of the Department of Interior's experience in formulating and implementing similar requirements under the Trans-Alaska Pipeline Act, it has been chosen to act as the lead agency in this effort. By acting in concert, the agencies have recognized the unique nature of this project, and the requirements of section 9 ANGTA that all Federal agencies act expeditiously to complete the steps necessary to grant the authorizations required to advance the project. These affirmative action requirements are an integral part of the certificates, rights-of-way, permits, leases and other authorizations which must be issued under ANGTA; and so it is important that these requirements be completed as expeditiously as possible, not only to prevent delay, but also to insure that every effort is made to increase the participation of minorities and women in the construction of the system from the earliest possible time. One set of requirements has been developed to

apply to the construction of the three U.S. segments of the system, despite the fact that three different companies are responsible for constructing and operating the three distinct U.S. segments. It was thought that uniformity of action, requirements, and application of the requirements to all portions of the system would make the implementation of these requirements much easier, and would avoid confusion and delay that might otherwise result. The agencies invite interested parties to comment upon this course of action that has been chosen.

These affirmative action requirements have been patterned, in large measure, upon those promulgated by the Department of Interior in regulations under the Trans-Alaska Pipeline Act, 43 CFR Part 27 (TAPS regulations). In addition, the regulations under Title VI of the Civil Rights Act of 1964 and Executive Order 11246 have also been the source of many of the requirements included here, as they were in the TAPS regulations. Certain changes from those regulations have been made to accomodate the special circumstances of the gas pipeline. Other changes have been made to reflect the experience gained during the implementation of the TAPS regulations. The primary differences between these requirements and the regulations for the oil pipeline are the expansion of requirements intended to increase the use of minority and female businesses in the procurement process, the addition of a procedure for early review of affirmative actions plans, and the incorporation of the responsibilities and authority of the Federal Inspector, an official unique to this project.

The Federal Inspector's role, under ANGTA, is to act as coordinator, monitor, and enforcer of the various legal requirements and obligations with which the companies must comply. The Office of the Federal Inspector will be abolished one year after the date of the initial operation of ANGTS, at which time the enforcement functions of the Office will revert to the respective agencies that granted authorization pursuant to ANGTA. During the construction phase of the project, the Federal Inspector will have an office, or officers, along the route of the pipeline in order to closely monitor the construction activities. The Reorganization Plan No. 1 of 1979, which transfers the monitoring and compliance functions of the various Federal agencies to the Federal Inspector, provides the Federal Inspector with the authority not to enforce any regulation or agency requirement which the Inspector determines is contrary to the purpose of ANGTA, i.e. the expeditious construction of the pipeline. These requirements recognize the role of the Federal Inspector by providing for flexibility in their implementation, and by leaving to the Inspector's discretion the manner which the requirements should be enforced.

In addition, the requirements differ from the TAPS regulations so as to encourage increased participation by minority and female businesses during the earliest stages of the planning and construction process. To that end the requirements for the portion of the affirmative action plan relating to procurement have been expanded. Also a procedure has been included to allow the Federal Inspector to review the adequacy of the affirmative action plans prior to the issuance of final authorizations for the project, and, in some instances, prior to the award of certain contracts.

Substantive Provisions

In substance, these requirements impose upon the applicants for, and recipients of, Federal certificates, permits, rights-of-way, leases, and other authorizations specific responsibilities to insure that no person is excluded on the basis of race, color, creed, national origin or sex, from participating in, and receiving the benefits of, the activities conducted under such authorizations. The broad nondiscrimination prohibition applies to every person participating in the project (section 34.2). In addition, specific practices, which have been used in the past to discriminate, have been expressly prohibited (section 34.4). Interested parties are invited to scrutinize the list of specific prohibitions to suggest additional practices that should be added, or possible refinements of those enumerated.

Specific requirements have been placed upon the project sponsors, the recipients of the Federal authorizations, and their contractors and subcontractors. The requirements vary depending upon the dollar amount of the contract, with more extensive obligations placed upon the project sponsors and major contractors. All contractors or subcontractors with contracts of $10,000 or more are required to provide assurances, prior to the execution of any contract, that they do not maintain segregated facilities and that they will abide by these requirements (section 34.5). In addition, each contract for goods and services valued at $10,000 or more must include an Equal Opportunity Clause. The Equal Opportunity Clause (section 34.6) is patterned after the clause required for all federal contractors pursuant to Executive Order 11246. An obligation to maintain certain records and to take certain affirmative steps arises as a consequence of including the clause in the contracts. A written affirmative action plan is not required as part of the Equal Opportunity Clause. This clause will be automatically incorporated into the terms of all Federal authorizations granted under ANGTA.

All contractors and subcontractors with contracts valued at $50,000 or more must develop a written affirmative action plan. The content of the plan is described in section 34.8. The required content of the plan varies, depending upon the dollar amount or value of the contract. For contracts between $50,000 and $150,000, the affirmative action plan must address employment practices and the manner in which services, financial aid, and other benefits will be provided. For contracts of $150,000 or more, the affirmative action plan must include a program to increase the use of minority and female businesses in the company's procurement process. The concepts used to develop the requirements for the procurement affirmative action plan are drawn from the regulations under Executive Order 11246 (41 CFR Part 60–2) even though that Executive Order does not address procurement practices.

The main elements of the procurement affirmative action plan are these: (1) A self-analysis of procurement policies to identify deficiencies and ways of correcting the deficiencies to afford minority and female businesses a greater opportunity to participate. This is analogous to the utilization analysis required in affirmative action plans of Federal contractors, and used in voluntary programs over the years. (2) Goal and timetable setting based on a knowledge of procurement opportunities and the availability of minority and female businesses. A variety of governmental and private agencies are available to assist in identifying minority and female businesses, and these requirements encourage consultation with such agencies in the development of affirmative action programs. The Federal government agencies that can provide assistance include the Small Business Administration, the Minority Business Development Agency, the Economic Development Administration, the Office of Minority Enterprise Program Development of the Department of Commerce, and the Department of Energy's Office of Small and Disadvantaged Business Utilization. These agencies can also assist minority firms to develop the capability to

participate in the project. (3) A description of specific steps that will be taken to increase minority and female business participation, to the maximum extent practical is also required. This requirement covers a number of actions designed to increase participation, from the naming of a liaison officer with program responsibilities, to procedures for verifying the ownership and control of minority and female businesses. Such actions involve rather standard considerations for implementing an affirmative action program. The procurement affirmative action plan required must also address the extent to which the project sponsors will provide assistance to minority and female businesses.

All affirmative action plans, regardless of the dollar value of the contract, are required to provide a mechanism for considering grievances or complaints. In addition, supporting data for all plans must be compiled and maintained by the companies.

The standards for the goals to be established for employment practices are those applied to Federal contractors under Executive Order 11246, and found at 41 CFR Part 60–2, Subparts B and C. A similiar reference to familiar standards by which to judge the adequacy of the goals established has not been made for the procurement practice goals.

Comments are also requested to address the appropriateness of incorporating by reference the affirmative action plan requirements for employment that appear in the OFCCP's regulations at 41 CFR Part 60–2, within § 34.8(c)(2) of these requirements. Both the EEOC and OFCCP have suggested that the more recently issued regulations applicable to construction projects, and found at 41 CFR Part 60–4, may be more appropriate. The principal advantage of the Part 60–4 regulations is that they include specific hiring goals for women and minorities by SMSA and economic region for each construction craft. In addition, specific affirmative action steps are required of all contractors and subcontractors with contracts of $10,000 or more. On the other hand, use of Part 60–2 requirement, would result in the development of goals by the project sponsors, their contractors and subcontractors based on their own analysis of labor market conditions, with these goals open to change through negotiation with the government. Also under Part 60–2, the contract threshold for specific affirmative action requirements as contained in affirmative action plans is $50,000. The authorizing agencies believe a single affirmative action model should be adopted and that the Part 60–2 model allows for greater flexibility in the setting of more realistic goals. In addition, the Part 60–2 regulations require the preparation of written affirmative action plans; the Part 60–4 regulations do not. Finally, the Part 60–2 approach was used successfully during construction of the Trans-Alaska oil pipeline, as well on other projects. These draft rules, therefore, adopt the Part 60–2 model.

Interested parties are invited to comment upon the standards that have been established, or that should be established, to guide the companies in establishing goals and timetables to increase the participation of minority and female workers and businesses.

These requirements also provide for an early review of the affirmative action plans of contractors and subcontractors with contracts of $500,000 or more (§ 34.8(c)(6). The project sponsors, their contractors and all subcontractors with contracts of $500,000 or more that have been awarded at the time these requirements are issued, will be required to submit their affirmative action plans for the Federal Inspector's approval within 60 days after these requirements are issued. For contracts awarded after these requirements are issued, the Federal Inspector has discretion to review the affirmative action plans of the contractors and subcontractors, with contracts of $500,000 or more, prior to the award of the contract. These early review requirements should afford ample opportunity for coordinating activities between the Federal Inspector's office, the sponsors, and the large contractors and subcontractors. It is believed that through such early review a number of things can be accomplished: project-wide goals and timetables can be set, centralized reporting systems can be established, and enforcement policies and procedures can be defined. The review of the affirmative action plans of the project sponsors and the largest contractors and subcontractors should be completed prior to the award of most of the necessary Federal authorizations.

Finally, these requirements acknowledge that the Federal Inspector has discretion and flexibility in the enforcement of these requirements and can employ any sanction or method of enforcement that is authorized by law. Pursuant to section 11 of ANGTA, the Federal Inspector may issue compliance orders directing compliance with any law, rule, regulation or order that the Inspector finds was violated. In addition, the Federal Inspector may request the Attorney General to commence civil actions for the imposition of injunctions and penalties, not to exceed $25,000 per day. Other avenues of enforcement are also open to the Federal Inspector. In addition to the enforcement procedures and sanctions of ANGTA, the Inspector also has available the enforcement provisions of other statutes. The Federal Inspector may refer matters to the EEOC for investigation and enforcement under title VII of the Civil Rights Act of 1964. No attempt has been made here to limit or direct the exercise of the Federal Inspector's discretion in the choice of enforcement mechanisms or sanctions available to be used. Comments are invited as to whether these requirements should include provisions to give some guidance to the Federal Inspector as to the choice of enforcement mechanisms or sanctions that would be appropriate in particular circumstances.

These regulations have been developed consistent with the review and consultation requirements of Executive Order 12067, with both the Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance Programs (OFCCP) providing comments on this and earlier drafts.

Prior to the issuance of these regulations for public comment, several informal public conferences and meetings were held to consider matters that would be affected by these regulations. The first of these meetings was on May 21, 1979, in Washington, D.C. at the Federal Energy Regulatory Commission with public comment received through June 18, 1979. During the week of September 2, 1979, Commissioner Matthew Holden, Jr. of the FERC held four additional meetings in Anchorage, Fairbanks, and Barrow, Alaska. The discussions which took place at the Alaska meetings are not reflected in these proposed requirements, but will be fully considered along with additional comments to be received during the public comment period.

Interested parties are encouraged to consider and comment upon all aspects of these proposed requirements, and not just the specific areas in which comment has been invited.

The author of these proposed rules is Edward E. Shelton, Director, Office for Equal Opportunity.

It is hereby determined that the publication of this document is not a major Federal Action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Authority: Under the authority of section 17, Pub. L. 94–586, 15 U.S.C. 719 (1976) it is proposed to amend Subtitle A of Title 43 of the Code of Federal Regulations by adding a new Part 34 as follows:

Dated: October 5, 1979.

Leo Krulitz,

Acting Secretary of the Interior.

PART 34—REQUIREMENTS FOR EQUAL OPPORTUNITY DURING CONSTRUCTION AND OPERATION OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Sec.

Authority: Section 17, Pub. L. 94–586, 15 U.S.C. 719 (1976).

§ 34.1 Statement of purpose.

The purpose of these regulations is to implement both section 17 of the ANGTA and Condition 11 of the President's *Decision.*

§ 34.2 Applicability.

These regulations apply to all activities including but not limited to, contracting for goods and services, employment, and any other benefits that flow from activities conducted under permits, rights-of-way, public land orders, and other Federal authorizations granted or issued pursuant to ANGTA, by recipients of those authorizations, their agents, contractors, and subcontractors, including labor unions or other persons.

§ 34.3 Definitions.

(a) As used in this part, the term, "ANGTA" or "Act" means the Alaska Natural Gas Transportation Act of 1976, Pub. L. No. 94–586, 15 U.S.C. 719.

(b) "ANGTS" means the Alaska Natural Gas Transportation System as designated and described in the President's *Decision and Reports to Congress on the Alaska Natural Gas Transportation System,* September 1977, pursuant to section 7(a) of ANGTA, S.J. Res. 82, 91 Stat. 1268 (1977).

(c) The term "affirmative action plan" means a statement of those actions appropriate to overcome the effects of past or present practices, policies or other barriers to equal opportunity in employment, procurement, and the provision of services, financial aid or other benefits, and includes goals for achieving equal opportunity and a description of specific result-oriented procedures to which the recipient, contractor or subcontractor commits itself to apply a good faith effort in order to achieve the goals.

(d) The term "applicant" means a person who has applied for and is seeking Federal authorization related to activities conducted under ANGTA, but has not received or been denied the authorization sought.

(e) The term "contract" means any agreement or arrangement (in which the parties do not stand in the relationship of employer and employee) between a recipient or an applicant and any person for the furnishng of supplies or services, or for the use of real or personal property including lease arrangements. The term contract also includes any agreement or arrangement, whether oral or written, express or implied, between two persons and which is related in any way to the activities conducted under any certificate, permit, right-of-way, lease, or other Federal authorization granted or issued pursuant to ANGTA, or in any way connencted with ANGTS.

(f) The term "contractor" means a person who is a party to a contract with a recipient or an applicant.

(g) The term "discrimination" means an action or a failure to act which has the effect or would tend to have the effect of excluding a person from participation in, denying a person benefits of, or subjecting a person to unequal treatment on the basis of race, creed, color, national origin or sex.

(h) The term "Federal Inspector" means the official appointed by the President pursuant to section 7(a)(5) of ANGTA to coordinate governmental actions with respect to ANGTS, including the monitoring and enforcement of the terms and conditions attached to goverment authorizations issued under ANGTA. The term also includes authorized representatives of the Federal Inspector.

(i) The term "female business enterprise" (FBE) means a sole proprietorship, partnership, unincorporated association, joint venture or corporation that is owned and controlled by women. To qualify as an enterprise owned and controlled by women, 51% of the beneficial ownership interests and 51% of the voting interests must be held and actually voted by women. Further, the enterprise must in fact be controlled and managed by women.

(j) "Minority" includes:—(1) Black, all persons having origins in any of the Black African racial groups not of Hispanic origin;

(2) Hispanic, all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin regardless of race;

(3) Asian and Pacific Islander, all persons having origins in any of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands including persons having origin, for example, in China, India, Japan, Korea, the Philippine Islands and Samoa; and

(4) American Indian or Alaskan Native, all persons having origins in any of the original people of North America and maintaining identifiable tribal affilations through membership and participation or community identification.

(k) The term "minority business enterprise" (MBE) means a sole proprietorship, partnership, unincorporated association, joint venture or corporation that is owned and controlled by minority persons. To qualify as an enterprise owned and controlled by minority persons, 51% of the voting interests must be held and actually voted by minority persons. Further, the enterprise must in fact be controlled and managed by minority persons.

(l) The term "person" includes recipients, contractors, subcontractors, governmental agencies, corporations, associations, firms, partnerships, joint stock companies, labor unions, employment agencies, and individuals.

(m) The term "President's *Decision*" means the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System,* September 1977, pursuant to section 7(a) of ANGTA, approved and adopted S.J. Res. 82, 91 Stat. 1268 (1977).

(n) The term "procurement" means the acquisition (and directly related matters) of personal property, and nonpersonal services (including construction) by such means as purchasing, renting, leasing, (including real property) contracting, or bartering, but not by condemnation or donation.

(o) The term "procurement practice" means any course of conduct or activity taken to effect procurement.

(p) The term "recipient" means any corporation, association, joint stock company, partnership, firm, agency or individual who receives a certificate, permit, right-of-way, lease, or other Federal authorization granted or issued under ANGTA, whether directly or through another recipient including any successor, assignee or transferee thereof.

(q) The term "subcontract" means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of employer and employee) in any way related to the performance of any one or more contracts as defined above.

§ 34.4 Discrimination Prohibited.

(a) *General.* No person shall be excluded on the grounds of race, creed, color, national origin, or sex, from receiving any benefit from or participating in any activity conducted under any certificates, permits, rights-of-way, leases, and other Federal authorizations to which this part applies.

(b) *Specific actions in which discrimination is prohibited.* No person shall directly or through contractural or other arrangements, discriminate in any activity to which this part applies, including the following:

(1)(i) Employment practices of employers, including advertising; hiring or firing; up-grading, promotion, or demotion; transfer, layoff, or termination; rates of pay, and other forms of compensation, or benefits;

(ii) Employment practices of labor unions including, acceptance of applications for membership, enrolling or expelling members, classification of members, referrals for employment, training and apprenticeship programs, and the provision of other benefits of membership;

(iii) Employment practices of employment agencies including, acceptance of applications for employment services, referrals for employment, classification of individuals for employment, and the provision of other benefits and services;

(2) Procurement practices, including manner of procurement; qualification for contracting or placement on procurement source lists; the composition of sources solicited; the use of pre-bid conferences; solicitation for proposals or bids; the designation of quantities, delivery schedules or other specifications; selection procedures; or performance standards.

(3) The provision of services, financial aid and other benefits provided in whole or in part, under any Federal authorization to which this part applies, more specifically including actions that result in the:

(i) denial to an individual or establishment of any service, financial aid, or other benefits;

(ii) provision of any service, financial aid, or other benefit to an individual or establishment which is different, or is provided in a different manner, from that provided to others;

(iii) subjection of an individual to segregation or separate treatment in any matter related to the receipt of any service, financial aid, or other benefits;

(iv) restriction of an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit;

(v) treatment of an individual that is different from others in the determination of any admission, enrollment, eligibility, membership requirements or other conditions which individuals must meet in order to be provided any service, financial aid, or other benefit;

(vi) denial to an individual of an opportunity to participate in any activity, or the provision to an individual of an opportunity to participate in any activity that is different from that afforded others;

(vii) denial to an individual of the opportunity to participate as a member of any planning or advisory body that participates in the provision of any service, financial aid, or other benefit;

(viii) use of criteria or methods of administration which have the effect of subjecting individuals or establishments to discrimination in the determination of the types of services, financial aid or other benefits, or the facilities that will be provided; or the class of individuals or establishments to which, or the situation in which, such services, financial aids, other benefits, or facilities will be provided; or the class of individuals or establishments to be provided an opportunity to participate in any activity; and

(ix) selection of a site or location for facilities for the provision of services, financial aid, or other benefits, with the purpose or effect of substantially impairing the objectives of section 17, the President's Decision, and implementing rules, regulations, and orders.

(c) *Scope of prohibited discrimination.* The enumeration of specific forms of prohibited discrimination in paragraph (b) of this section does not limit the general prohibition in paragraph (a) of this section.

§ 34.5 Assurances.

Every application for a certificate, permit, right-of-way, lease, public land order, or other Federal authorization to which this part applies, filed after the effective date of these regulations, and every contract covered hereunder to provide goods, services, or facilities in the amount of $10,000 or more to a recipient contractor or subcontractor to which this part applies, must contain an assurance that the recipient, contractor, or subcontractor does not and will not maintain any segregated facilities, and that all requirements imposed by or pursuant to section 17, the President's Decision and implementing rules, regulations, and orders shall be met, and that it will require a similar assurance in every subcontract of $10,000 or more.

§ 34.6 Equal Opportunity Clause.

Each certificate, permit, right-of-way, lease, or other Federal authorization to which this part applies, shall include the following Equal Opportunity Clause:

(a) The recipient, contractor, or subcontractor hereby agrees that it will not discriminate directly or indirectly against any individual or establishment in offering or providing procurements, employment, services, financial aid, other benefits, or other activities to which these regulations apply. The recipient, contractor, or subcontractor will take affirmative action to utilize business enterprises owned and controlled by minorities or women in its procurement practices; to assure that applicants for employment are employed, and that employees are treated during employment without discrimination on the basis of race, creed, color, national origin, or sex; and to assure that individuals and establishments are offered and provided services, financial aid, and other benefits without discrimination on the basis of race, creed, color, national origin, or sex. The recipient, contractor, or subcontractor agrees to post in conspicuous places available to contractors, subcontractors, employees, and other interested individuals, notices which set forth these equal opportunity terms; and to notify interested individuals, such as bidders, contractors, purchasers, and labor unions or representatives of workers with whom it has collective bargaining agreements, of its obligations under section 17, and of the President's Decision and implementing rules, regulations and orders thereunder;

(b) The recipient, contractor, or subcontractor will comply with all rules, regulations, and orders which implement section 17 and Condition 11 of the President's Decision;

(c) The recipient, contractor, or subcontractor will furnish all information and reports required by or pursuant to rules, regulations, and orders implementing section 17 and Condition 11 of the President's Decision, and will permit access to its facilities, books, records, and accounts by the Federal Inspector for purposes of ascertaining compliance with such rules, regulations, and orders;

(d) In the event of a recipient's, contractor's, or subcontractor's noncompliance with these equal opportunity terms, compliance may be effected through procedures authorized by ANGTA and set forth in implementing rules, regulations, and orders, or by any other means authorized by law;

(e) The recipient, contractor, or subcontractor will include the provisions of paragraphs (a) to (e) in all agreements to assign authorization, all contracts over $10,000, and all contracts of indefinite quantity, unless there is reason to believe that the amount to be ordered in any year under the contract will not exceed $10,000. The recipient, contractor, or subcontractor will take such action with respect to any contract or purchase order that the Federal Inspector may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event the recipient, contractor, or subcontractor becomes involved in or is threatened with litigation with a subcontractor or vendor, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

§ 34.7 Incorporation by Operation of Law.

(a) The Equal Opportunity Clause shall be deemed incorporated into every Federal authorization, agreement to assign an authorization, contract and subcontract where § 34.6 of these regulations requires the inclusion of such a clause whether or not the clause is physically incorporated in such Federal authorization, agreement to assign authorization, contract or subcontract, and whether or not the agreement or contract is written.

(b) The affirmative action plans prepared pursuant to this part shall be deemed incorporated into the Federal authorizations, contracts, and subcontracts to which these regulations apply.

§ 34.8 Affirmative Action Plans.

(a) Within sixty (60) days of the effective date of this part, applicants for or recipients of Federal authorizations and each contractor and subcontractor with contracts of $500,000 or more shall submit to the Federal Inspector for approval, in accordance with paragraph (c)(6) of this section, an affirmative action plan for each of their establishments, with the exception of those establishments which the Federal Inspector determines are not associated with any activities conducted pursuant to the Federal authorizations to which this part applies.

(b) In addition, recipients and each of their contractors and subcontractors shall require each contractor with a contract in the amount of $50,000 or more to develop before the commencement of the contract and to keep on file a written affirmative action plan for each of their establishments, with the exception of those establishments which the Federal Inspector determines are not associated with any activities conducted pursuant to the Federal authorizations to which this part applies.

(c) An acceptable affirmative action plan must include an analysis of all areas of operation of the recipient, contractor, or subcontractor in which it could be deficient in offering services, opportunities, or benefits to minority groups and women, all areas of employment in which it could be deficient in the utilization of minority groups and women, and all areas of procurement in which it could be deficient in the utilization of MBE's and FBE's; and, further, the plan must include specific goals and specific timetables to which the recipient, contractor, or subcontractor will direct its best efforts to correct all deficiencies, and to materially increase the participation of minorities and women in all aspects of its operation. Such plans shall be updated annually.

The affirmative action plan shall include the following:

(1) *Services, financial aid, and other benefits*—The recipient, contractor or subcontractor is required to specifically address and analyze all areas of its operation which offer and provide services, financial aid, and other benefits at each of its establishments to which this section applies. The analysis should include:

(i) An identification of services, financial aid, and other benefits that the recipient, contractor or subcontractor provides or may provide;

(ii) A description of the population eligible to be served or to participate, by race, color, national origin, and sex;

(iii) An identification of specific actions that will be taken to assure that no discrimination occurs in providing services, financial aid, and other benefits;

(iv) If relevant, the location of all existing or proposed facilities connected with the services, financial aid, or other benefits, as well as related information adequate for determining whether the location has or could have the effect of denying access to any individual on the basis of prohibited discrimination;

(v) Where relocation of facilities is involved, the steps that will be taken to guard against adverse socioeconomic effects on individuals on the basis of race, color, creed, national origin, or sex.

(vi) Information on all areas of the recipient's, contractor's, or subcontractor's operations that require change to assure that specific actions set forth at 34.4(b)(3) do not occur in the provision of any of its services, financial aid, or benefits;

(vii) A monitoring system to assure that no discrimination occurs.

(2) *Employment practices.* The affirmative action plan shall address all aspects of employment in construction and non-construction operations and shall contain all analyses and commitments, including goals and timetables, which are required in regulations promulgated pursuant to Executive Order 11246, specifically at 41 CFR Part 60–2, Subparts B and C.

(3) *Procurement Practices.* Recipients and each contractor and subcontractor with a contract of $150,000 or more shall also include in the affirmative action plan a program in which the recipient, contractor, or subcontractor agrees to take specific affirmative action as set forth below to utilize MBE's and FBE's as contractors and suppliers. The plan shall identify specific actions which the recipient, contractor, or subcontractor will take to afford MBE's and FBE's the maximum practicable opportunity to participate in the construction and operation of the ANGTS. The plan shall contain:

(i) An in-depth utilization analysis of all areas of procurement procedures to determine if these procedures offer maximum opportunity for the utilization of MBE's and FBE's. All deficiencies must be identified along with steps that are being taken to correct them. The analyses shall include the following information for the preceding year, or such lesser time as the Federal Inspector determines is necessary to identify deficiencies in contracting with MBE's and FBE's:

(A) A listing of each procurement action by number and type, including the dollar amount of each action, the name of the company receiving the contract, and whether it was an MBE or FBE;

(B) An identification of all MBE's and FBE's which were considered for each contract, and an indication of which of these companies received the contracts;

(C) Separate statements of the total dollar value of procurements from MBE's and from FBE's and the percentage of each as a portion of the total dollar value of all procurements for the period; and

(D) An identification of negotiated procurements which involved no competitive bidding.

(ii) A description of all procurement opportunities to be offered for the succeeding year, or for such longer period of time for which projections are available. The plan shall identify the types of services and supplies for which procurements are to be let, with as much specificity as possible, indicating the dollar amounts of procurements contemplated.

(iii) The establishment of specific dollar goals separately for MBE's and for FBE's and timetables for achieving these goals for each specific type of contracting identified. Goals for MBE's should assure utilization of the various minority groups on an equitable basis. The following factors should be considered during the goal setting process:

(A) The availability and capability of existing MBE's and FBE's in each specific area;

(B) The extend to which new firms can be organized and the capability of existing firms expanded by efforts of the recipient, contractors or subcontractors, as well as by the efforts of other organizations and institutions;

(C) Anticipated procurement expansion;

(D) The extent to which changes in the procurement system can be made to utilize contract breakouts and other methods to increase opportunities for MBE's and FBE's.

(iv) A description of all actions that will be taken to provide the maximum practicable opportunity for MBE's and FBE's to participate in the construction and operation of ANGTS including the following:

(A) The appointment of a liaison officer who will administer the MBE and FBE program, the identification of that officer, and a description of that officer's duties and authority;

(B) Identification of steps that will be taken to insure timely and full consideration of MBE's and FBE's in all procurement decisions, and the identification of how those procedures will be implemented. This shall include procedures relevant to (*1*) the arrangement of solicitations, (*2*) time for preparation of bids, (*3*) quantity requirements, (*4*) determination of specifications, (*5*) determination of delivery schedules, (*6*) the determination of the manner of procurements, (*7*) defining the firms to compete for various procurements, and (*8*) breaking out contracts into smaller procurements;

(C) An identification of procurement arrangements that will be adopted to increase the use of MBE's and FBE's, including an analysis of the circumstances in which and the extent to which the following types of procurement practices can be used: (*1*) non-competitive contracting, (*2*) contracting based upon competition between a limited number of enterprises, and (*3*) negotiated procurements;

(D) Specific procedures for identifying capable MBE's and FBE's and for the dissemination of information on business opportunities and procurement practices to minority and women's business organizations and associations, in sufficient detail, and affording sufficient time, to offer full opportunities for participation by MBE's and FBE's;

(E) An identification of financial assistance, such as investment in Minority Enterprise Small Business Investment Companies (MESBIC) and direct investment in MBE's and FBE's, that the recipient, contractor or subcontractor determines feasible and financially appropriate to offer MBE's and FBE's;

(F) The efforts that will be made to cooperate with MBE and FBE technical and other assistance programs of Federal and State agencies, including the Small Business Administration, the Minority Business Development Agency, the Economic Development Administration, the Office of Minority Enterprise Program Development, and the Department of Energy's Office of Small and Disadvantaged Business Utilization. These efforts shall be commensurate with the dollar amount of the procurement opportunities that the recipient, contractor, or subcontractor has as a result of participation in the construction of ANGTS;

(G) The identification and elimination of non-essential technical requirements and procedures, including non-essential bonding and insurance requirements;

(H) Holding regularly scheduled meetings with procurement officials of the recipient, contractor, or subcontractor to explain minority business enterprise policies and procedures;

(I) Identification of specific procedures for certifying and verifying ownership and control of companies identified as MBE's and FBE's. The plan shall include the requirement that firms submit affidavits as to their status as MBE's and FBE's as defined in § 34.3.

(v) As an integral part of the affirmative action plan, develop and maintain separate source listings of MBE's and FBE's. Such lists or files should contain whenever possible the following information on each company:

(A) A description of each business, including the type of organization.

(B) The product or service offered,

(C) Information on ownership and control,

(D) All relevant data and affidavits which establish that the enterprise is owned, controlled, and managed by minorities or women.

(4) *Complaint system.* (i) The affirmative action plan must include a grievance mechanism for resolving disputes arising from the implementation of the plan.

(ii) A copy of all complaints, related records, and specific resolutions must be maintained.

(5) *Data to support affirmative action program and access to programs.* (i) Data supporting the analyses and programs required by these regulations shall be compiled and maintained as part of the affirmative action plan.

(ii) Copies of the affirmative action plan and supporting data shall be made available to the Federal Inspector upon his request as may be appropriate for the fulfillment of the Inspector's responsibilities under these regulations.

(6) *Review of affirmative action plan.* (i) Every applicant for a Federal authorization to which this part applies and each of its contractors and subcontractors with contracts of $500,000 or more that are in effect on the date these regulations are promulgated shall submit the affirmative action plans required by this section to the Federal Inspector for approval within 60 days of the promulgation of these regulations.

(ii) All contractors and subcontractors with contracts of $500,000 or more that are executed after the date these regulations are promulgated shall file their affirmative action plans with the Federal Inspector before the commencement of the contract.

(iii) Applicants and their contractors and subcontractors with contracts of $500,000 or more shall include with their affirmative action plans the following information:

(A) A brief description of pending applications to any Federal agency for Federal financial assistance or the award of a government contract, as well as any Federal assistance being received or any government contracts or subcontracts being performed;

(B) Whether any Federal, State or local government agency has found the applicant, contractor, or subcontractor in noncompliance or has found reasonable cause to believe the applicant, contractor, or subcontractor is in violation of, or in noncompliance with, any civil rights requirements;

(C) A description of the methods by which the applicant, contractor, or subcontractor will insure that its contractors and subcontractors comply with the provisions of the affirmative action plans during the term of the contracts;

(d) The Federal Inspector shall consider conducting an on-site review before the award of any Federal authorizations, agreements to assign Federal authorizations, contracts or subcontracts under which substantial employment or procurement opportunities will be offered;

(e) The Federal Inspector will determine whether the affirmative action plans are adequate. If deficiencies are found to exist in a plan, the recipient, contractor, or subcontractor shall correct the deficiencies in consultation with the Federal Inspector. If deficiencies are not corrected to the satisfaction of the Federal Inspector, the Inspector may enforce compliance with this section through measures authorized by ANGTA or any other provision of law.

§ 34.9 Compliance reporting.

(a) *Records, reports, and access to books.* Each recipient, contractor, and subcontractor to which these regulations apply shall submit to the Federal Inspector reports in the form and manner that the Federal Inspector determines to be necessary to insure compliance with the rules, regulations, and orders implementing section 17 and the President's Decision.

(b) *Access to sources of information.* Each person to whom this part applies shall permit access by the Federal Inspector during normal business hours to books, records, accounts, and other sources of information, and to facilities, as the Federal Inspector determines to be necessary to insure compliance with the rules, regulations, and orders implementing section 17 and the President's Decision.

(c) *Failure to submit reports.* Failure to file timely, complete, and accurate reports, or failure to permit access to sources of information as required constitutes noncompliance with the Equal Opportunity Clause and with these regulations; and, therefore, constitutes grounds for action by the Federal Inspector, recipient, contractor, or subcontractor to enforce compliance or levy sanctions authorized by ANGTA, by the implementing rules, regulations, and orders, by contractual agreement or by any other means authorized by law.

(d) *Information to beneficiaries and participants.* Each recipient or other entity required to develop an affirmative action plan pursuant to these regulations shall make the plan available to employees, participants, and beneficiaries.

§ 34.10 Compliance reviews.

(a) *Periodic compliance procedures.* (1) The Federal Inspector will review at least annually the practices of recipients, contractors, and subcontractors, who offer significant opportunities for employment or procurement, to determine whether they are complying with their affirmative action plans and the rules, regulations, and orders implementing section 17 and the President's Decision. The review will consist of a comprehensive analysis of all aspects of the recipient's, contractor's or subcontractor's operations and practices and the conditions resulting therefrom. The review will include an on-site visit if the Federal Inspector determines that such a review is necessary.

(2) The Federal Inspector will continually monitor and verify the status of MBE's and FBE's through procedures as the Inspector may determine appropriate.

(b) *Complaints.* (1) Complaints alleging discrimination or noncompliance with affirmative action plans shall be filed with the Federal Inspector.

(2) A complaint must be filed within 180 days from the date of the alleged discrimination, unless the time for filing is extended by the Federal Inspector for good cause shown.

(3) The complaint should include the name, address, and telephone number of the complainant; the name and address of the person alleged to have discriminated; a description of the alleged discriminatory acts; and any other pertinent information which will assist the investigation and resolution of the complaint. The complaint should be signed by the complainant or his or her authorized representative.

(c) *Investigations.* The Federal Inspector will make a prompt investigation whenever information indicates a possible failure to comply with the rules, regulations, and orders implementing section 17 and the President's Decision. The investigation should include, where appropriate, a review of the pertinent practices and policies of the person, the circumstances under which the possible noncompliance occurred, and other factors relevant to determine whether the person has failed to comply with section 17, the President's Decision, and implementing rules, regulations, and orders.

(d) *Resolution of complaints and investigations.* (1) If an investigation pursuant to paragraphs (a) through (c) of this section indicates probable noncompliance with the rules, regulations, and orders implementing section 17 and the President's Decision, the Federal Inspector will attempt to resolve the matter by informal methods of conference, conciliation, and persuasion.

(2) Resolution shall be effected through a written agreement between the Federal Inspector, the complainant, if any, and the person who has failed to comply. The agreement shall contain commitments to promptly eliminate all discriminatory conditions and shall identify the precise remedial actions to be taken; dates for completion of remedial actions; and a provision that breach of the agreement may result in further enforcement actions by the Federal Inspector. The Federal Inspector will then certify compliance, on condition that the commitments are kept. Such certification does not preclude future determination by the Federal Inspector that the full facts were not known at the time the agreement was executed, or that commitments are not sufficient to correct deficiencies.

(e) If the Federal Inspector's investigation does not warrant enforcement action, the Federal Inspector shall so inform the complainant, if any, and the person who was investigated.

(f) *Acts of intimidation or retaliation prohibited.* No person shall intimidate, threaten, coerce, or retaliate against any individual for the purpose of interfering with any right or privilege secured by section 17, the President's Decision, and implementing rules, regulations, and orders, because that individual has made a complaint, testified, assisted in, benefited from, or participated in any manner in an investigation, compliance review, proceeding, or hearing conducted pursuant to these regulations. The identity of complainants may be kept confidential except to the extent necessary to carry out the purpose of this part, including investigatory actions, hearings, or judicial proceedings arising thereunder.

§ 34.11 Enforcement provisions.

The Federal Inspector may enforce the provisions of section 17, the President's Decision, and implementing rules, regulations, and orders in any manner authorized by law.

[FR Doc.79-31497 Filed 10-11-79; 8:45 am]

BILLING CODE 4310-10-M

federal register

Friday
October 12, 1979

Part VI

Environmental Protection Agency

Submission of Notice of Manufacture or Importation of PBBs and Tris; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 713

[OTS-081005; FRL 1270-1]

Submission of Notice of Manufacture or Importation of PBBs and Tris

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of opportunity for comment.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to require that it be notified of any manufacture or importation of polybrominated biphenyls and tris (2,3-dibromopropyl) phosphate. This proposal is made on the initiative of the Agency. The purpose of the notice requirement is to confirm that these substances are no longer being manufactured or imported and to ensure that EPA has the opportunity to investigate the circumstances of any resumption of production.

DATES: Written comments on this proposal must be received on or before December 11, 1979.

ADDRESS: Written comments should bear the document control number OTS-081005 and should be submitted to the Document Control Officer, Office of Toxic Substances (TS-793), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. All written comments filed pursuant to this notice will be available for public inspection at the above address from 9:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Director, Industry Assistance Office, Office of Toxic Substances (TS-799), Environmental Protection Agency, Washington, D.C. 20460, 800-424-9065; in Washington call 554-1404.

SUPPLEMENTARY INFORMATION:

Background

There is significant evidence that polybrominated biphenyls (PBBs) and tris(2,3-dibromopropyl) phosphate (Tris) may present risks to health and the environment. They have apparently gone out of production, except for the importation of plastic pellets containing PBBs. The purpose of this proposed notice requirement is to confirm that the substances are no longer being manufactured or imported *per se*, and to ensure that EPA has the opportunity to investigate the circumstances of any resumption of production.

On October 13, 1977, the Administrator of the EPA announced in the **Federal Register** (42 FR 55134) the Agency's intent to investigate the need to control PBBs under the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601 *et seq.*). EPA prepared a hazard assessment document evaluating the known health and environmental effects of PBBs. The assessment indicated that PBBs are persistent; bioaccumulate in the environment; and are embryotoxic, mutagenic, teratogenic, and potentially carcinogenic.

On April 8, 1977, the Consumer Product Safety Commission acted to ban the use of Tris in children's wearing apparel after Tris was found to be an animal carcinogen (see 42 FR 18850-18851). All production of Tris in the United States apparently stopped by the end of 1977.

Since these chemical substances are apparently not in production *per se*, the Agency has decided that control action is not warranted at this time. Therefore, the Agency has determined that a reporting rule proposed pursuant to section 8(a) of TSCA (15 U.S.C. 2607(a)) is the appropriate course of action.

The proposed section 8(a) rule would require notification to EPA of the manufacture or import, or the proposal to manufacture or import, PBBs or Tris. After receipt of a notice EPA would determine, through follow-up investigation, whether the activity may present an unreasonable risk to health or the environment. If EPA finds that an unreasonable risk may result, EPA will consider additional regulatory action to control the proposed PBB or Tris activity, including a ban under section 6 of TSCA (15 U.S.C. 2605).

Polybrominated Biphenyls (PBBs)

PBBs were manufactured between the years 1970 and 1977 and were used as a flame retardant for a variety of plastic products. Three companies, one in Michigan and two in New Jersey, manufactured PBBs. All three companies, Michigan Chemical Co., St. Louis, MI (now owned by Velsicol Chemical Corp.); the Fine Organics Division of Hexcel Corp., Sayerville, NJ (plant production site now owned by Saytech Inc.); and White Chemical Co., Bayonne, NJ, have discontinued the manufacture of PBBs. Except for one company importing plastic pellets containing PBBs, no other companies are known to currently manufacture or import PBBs.

In 1973, approximately 2,000 pounds of PBBs were mistakenly shipped as an animal feed additive to the Michigan Farm Bureau where it was inadvertently mixed with animal feed and later distributed to farmers. This contaminated animal feed caused widespread disease symptoms among cattle and other farm animals. Before the problem could be identified, however, the animal feed was commercially distributed, resulting in the exposure of a large portion of the population of Michigan to PBBs. Subsequently, thousands of farm animals were destroyed.

Other exposures to PBBs have occurred. It has been estimated that in 1977, 0.1 percent of the PBBs manufactured or processed were emitted to the air as particulate matter. Smaller amounts of PBBs were released to sewer systems. Monitoring studies of soil surrounding PBB manufacturing plants showed levels of PBBs ranging from 0.94 ppm to 3,500 ppm. Little information is available, however, indicating whether or not the levels of PBBs remaining in the environment are sufficiently significant to cause adverse health or environmental effects. Furthermore, an unknown amount of PBB end products remains in use, consisting mostly of plastic materials into which PBBs have been incorporated.

In 1977, EPA prepared a hazard assessment document on PBBs, which indicates that PBBs bioaccumulate and are persistent, mutagenic, embryotoxic, and potentially carcinogenic. On October 13, 1977, the EPA announced its intent (42 FR 55134) to investigate the need to control PBBs under TSCA.

EPA has subsequently concluded that PBBs currently pose no general threat to health and the environment. The three activities that result in the primary sources of exposure to PBBs—manufacturing, processing, and distribution of the substance *per se*—have apparently ceased. The use or disposal of plastics which contain PBBs is not expected to result in significant exposure of man or the environment to PBBs because of the unlikelihood that PBBs will leach out of the plastics in detectable quantities. The exposure to PBBs resulting from former PBB-related activities—the Michigan farm feed distribution incident and the manufacture and processing of PBBs—appears to be adequately controlled by programs administered by the States of New Jersey and Michigan and the Food and Drug Administration. EPA is investigating the one known PBB activity, the importation of plastic pellets containing PBBs. The greatest exposure to PBBs occurs during the manufacturing and processing of the substance and the initial compounding phase when PBBs are mixed with plastics prior to the formation of plastic articles. Since this compounding

operation is completed prior to the importation of the plastic pellets, the greatest potential for exposure in this country is probably removed. However, it is possible that workers processing these plastic pellets into finished articles might be exposed to PBBs. EPA will continue to investigate this PBB activity to determine the potential for risk. Therefore, EPA has determined that there is *currently* no need to directly regulate any of the PBB-related activities by using the authority granted to EPA under TSCA section 6.

However, in order to assess the risks that new exposure to PBBs may present if the manufacture or import of PBBs is resumed, EPA is proposing a section 8(a) reporting rule.

Tris(2,3-Dibromopropyl) Phosphate (Tris)

In September 1978, EPA prepared a hazard assessment document on Tris, a substance used in recent years as a fire-retardant additive for some textiles and plastics. Commonly used names for this substance are DBPP, TBPP, Tris-BP, and Tris. Tris, the name which will be used in this document, is the most frequently used of these.

Physically, Tris is an odorless, pale amber to light yellow, oily viscous liquid. It has been available commercially since the 1950's, but did not come into significant use until the early 1970's. The emergence of Tris as a commercially important fire-retardant additive is attributable in part to the application of the flammability standards established under the Flammable Fabrics Act (15 U.S.C. 1191–1204) to such items as children's sleepwear, carpets, rugs, mattresses, and mattress pads.

Evidence of a potential health hazard from the use of Tris first appear in the latter part of 1975 when Tris was reported to display mutagenic activity in the Ames-type bioassay. Tris was already being tested for carcinogenicity under the auspices of the National Cancer Institute (NCI) when the mutagenicity data were reported. In February 1977, NCI reported that Tris was an animal carcinogen.

In April 1977, the Consumer Product Safety Commission (CPSC) banned the use of Tris in children's wearing apparel. As a result, all production of Tris in the United States apparently stopped by the end of 1977.

Although Tris is apparently out of commercial production, there are no regulations to preclude its manufacture or reentry to the market in the future (though CPSC's policy does essentially preclude it from use in children's wearing apparel). Because the acceptability of its reentry would depend largely on the potential for human exposure associated with its intended use, it is important that EPA have an opportunity to investigate the circumstances of any such activity.

An appropriate means for EPA to address the problem of Tris possibly reentering the market in uses with human exposure potential is a section 8(a) reporting rule to allow EPA to monitor future development in production and use of this chemical.

Function of Proposed Rule

Under the authority of section 8(a) of TSCA, the Agency is proposing to promulgate a rule requiring advance notice of the manufacture or importation of a chemical substance and notice of any current manufacture or importation. If EPA finds, after appropriate investigation, that an unreasonable risk may result from a new or existing activity using PBBs or Tris, EPA will consider additional regulatory action to control such activity, including a ban under section 6.

Definitions

For the purposes of this proposed rule, the term "PBS" (polybrominated biphenyls) refers to chemical substances or mixtures whose compositions, without regard to impurities, consist in whole or in part, of brominated biphenyl molecules having the molecular formula $C_{10}H_xBr_y$ where $x+y=10$ and y ranges from 1 to 10. For the purposes of Part 713, "PBBs" refers to both discrete chemical substances (e.g., monobromobiphenyl, heptabromobiphenyl, octabromobiphenyl, etc.) and mixtures of brominated biphenyls. However, the reporting requirements of this proposed rule are effectively limited to those PBBs which have been reported for the Inventory—dibromobiphenyl, octabromobiphenyl, nonabromobiphenyl, and decabromobiphenyl—and those that might be reported for the revised Inventory. Manufacture or import of others PBBs will, of course, require a premanufacture notice.

The term "Tris" refers to tris (2,3-dibromopropyl) phosphate. This term includes all commercially available grades of Tris.

"Propose to manufacture or import" is defined in this rule to mean that a person has made a management decision to commit financial resources toward the manufacture or import of a chemical substance or mixture.

EPA recognizes that the point at which a company "proposes to manufacture or import" a chemical substance may vary considerably from company to company. EPA believes that once a company has committed financial resources to produce a chemical, it will have a firm intent to manufacture or import it, and that this is the proper time to report to EPA. A company could commit financial resources by, for example, hiring additional personnel, commissioning market studies, purchasing production equipment, or contracting for raw materials. The Agency is requesting comment on this definition and solicits alternatives.

"Small manufacturer or importer" refers to a manufacturer or importer with total annual sales of less than $500,000. However, no person is a small manufacturer or importer with respect to PBBs or Tris manufactured or imported in quantities greater than 10,000 pounds. Thus, a notice would have to be submitted by a manufacturer or importer if PBBs or Tris were manufactured or imported in quantities greater than 10,000 pounds. The Agency must balance the need to know if firms are manufacturing or importing these chemicals in substantial quantities against the marginal reporting costs which would be incurred by these firms. 10,000 pounds was selected because it can serve the needs of EPA and, at the same time, not burden small manufacturers and importers.

Requirements

TSCA section 8(a) authorizes the Administrator to promulgate rules under which each person (other than a small manufacturer or processor), who manufacturers or processes or who proposes to manufacture or process a chemical substance or mixture, shall submit such reports as the Administrator may reasonably require. In TSCA, the term manufacture includes to import.

Under this rule the reporting requirement would consist of a notice to EPA stating that a person is manufacturing or proposing to manufacture PBBs or Tris, or is importing or proposing to import PBBs or Tris as a chemical substance in bulk or as part of a mixture. This rule would not apply to processors.

The notice would include company name and address; principal technical contact; a description of the use or intended use for the PBBs or Tris; estimated exposure during manufacture, importation, disposal, processing, distribution, or use; estimated production volume; and, as appropriate, the proposed date for the resumption of manufacture or import of PBBs or Tris.

Small manufacturers or importers as defined in § 713.11(1), persons who manufacture or import or who propose to manufacture or import PBBs or Tris solely for research and development or as a byproduct or impurity, and persons who import or propose to import PBBs or Tris as part of an article, would not be subject to this proposed rule.

The decision to exempt importers of articles from the requirements of this proposed rule is consistent with previous Agency reporting provisions for the inventory (42 FR 64572 *et seq.*) and the proposed premanufacture notification regulations (44 FR 2242 *et seq.*). These importers would be exempt from this rule because EPA believes that articles containing PBBs pose a minimal risk to health and the environment, and that, in many instances, importers of articles containing plastic components would not be aware that they contained PBBs. Importers of Tris-treated or Tris-containing articles would also likely not know that they were importing Tris. Moreover, CPSC's rules preclude use of Tris in children's wearing apparel, and hence, import of Tris as a part of children's wearing apparel is prohibited. This has been the use of greatest concern. The Agency specifically requests comments on this proposed reporting exemption. An alternative approach which EPA has considered is to apply the reporting requirement to persons who know that they are importing or intend to import PBBs or Tris as part of an article. EPA invites comment on whether the rule should cover such persons.

Confidentiality

Any person submitting a notice may claim any part or all of the notice as confidential. Information which is claimed confidential will be disclosed by EPA only to the extent and by means of the procedures set forth in the Agency's business confidentiality rules, 40 CFR Part 2.

Information Request

The Agency specifically requests comment on the uses of Tris. The only functional use of Tris known the Agency is its use as a fire-retardant additive, primarily for synthetic polymeric materials. If any person knows of other uses of Tris, the Agency would appreciate having the information.

Tris use information should be submitted to the Document Control Officer, EPA, Chemical Information Division, Office of Toxic Substances (TS–793), Washington, DC 20460. Attention: Tris Use Information.

Public Record

EPA has established a public record for this rulemaking (docket number OTS–081005) which, along with a complete index, is available for inspection in the OTS Reading Room from 9:00 a.m. to 5:00 p.m. on working days (401 M Street, SW., Washington, DC 20460). This record includes basic information considered by the Agency in developing this proposed rule. The Agency will supplement the record with additional information as it is received. The record includes the following categories of information:

1. This proposed rule.
2. Documents supporting potential PBB section 6 action.
3. Analysis of options for definition of Small Business, and estimated cost of the initial section 8(a) reporting requirement.
4. Blum, A. and Ames, B. (1977), "Flame-Retardant Additives as Possible Cancer Hazards", Science, *195:* 17–21.
5. Blum, A., Gold, M. D., Ames, B. N., Kenyon, C., Jones, F. R., Hett, E. A., Dougherty, R. C., Horning, E. C., Dzidic, I., Carroll, D. I., Stillwell, R. N., and Thenot, J–P. (1978), "Children Absorb Tris-BP Flame Retardant from Sleepwear: Urine Contains the Mutagenic Metabolite, 2,3-Dibromopropanol", Science *201:* 1020–1023.
6. CPSC (1977), "An Environmental Assessment of the Effects of CPSC's Action to Ban Children's Garments Containing TBPP", Consumer Product Safety Commission, Bureau of Economic Analysis.
7. CPS (1977), "Final Report—Subchronic and Radioactive 14.C Tracer Studies of Tris(2,3-Dibromopropyl) Phosphate in Laboratory Rodents", Bureau of Biomedical Science/CPSC.
8. CPSC (1977), Bureau of Biomedical Science, as reported in the **Federal Register**, Vol. 42, No. 68, April 8, 1977.
9. Levin, A. A. (1978), Director of Government Compliance, Velsicol Chemical Corporation, Personal Communication, March 7, 1978.
10. NCI (1978), "Bioassay of Tris(2,3-Dibromopropyl) Phosphate for Possible Carcinogenicity", DHEW Publication No. (NIH) 78–1326.
11. Prival, M., McCoy, E. C., Gutter, B., and Rosenkranz, H. S. (1977), "Tris(2,3-Dibromopropyl) Phosphate: Mutagenicity of a Widely Used Flame Retardant", Science, *195:* 76–78.
12. St. John, L. E., Eldefrawi, M. E., and Lisk, D. J. (1976), "Studies of Possible Absorption of a Flame Retardant from Treated Fabrics Worn by Rats and Humans", Bull. Env. Contam. Toxicol., *15*(2): 192–197.

EPA anticipates adding to the rulemaking record the following types of information:

1. All comments on this proposed rule.
2. All relevant support documents and studies.
3. Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. (This does not include any inter- or intra-agency memoranda unless specifically noted in the index of the rulemaking record).
4. Minutes, summaries, or transcripts of any public meetings held to develop this rule.
5. Any factual information considered by the Agency in developing the rule.

EPA will identify the complete rulemaking record on or before the date of promulgation of the regulation, as prescribed by section 19(a)(3) of TSCA (15 U.S.C. 2618(a)(3)) and will accept additional material for inclusion in the record at any time between this notice and such designation. The final rule will also permit persons to point out any errors or omissions in the record.

Note.—EPA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis Statement under Executive Order No. 12044 and OMB Circular No. A107.

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

Dated: October 3, 1979.

Douglas M. Costle,

Administrator.

It is proposed that Title 40, Chapter I, be amended by adding the new Part 713 to read as follows:

PART 713—REPORTING AND RECORDKEEPING REQUIREMENTS

Submission of Notice of Manufacture or Import of PBBs and Tris

Sec.

Authority: Sec. 8(a), Pub. L. 94–469, 90 Stat. 2027 (15 U.S.C. 2607(a)).

§ 713.11 Definitions.

All definitions as set forth in the Toxic Substances Control Act (TSCA) section

3 apply for this rule. In addition, the following definitions are provided for the purposes of this rule.

(a) "Article" means a manufactured item (1) which is formed to a specific shape or design during manufacture, (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (3) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article, and that result from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles; except that fluids and particles are not considered articles regardless of shape or design.

(b) "Byproduct" means a chemical substance produced solely without a commercial intent during the manufacture, processing, use, or disposal of another chemical substance(s) or mixture(s).

(c) "EPA" means the United States Environmental Protection Agency.

(d) "Importer" means any person who imports any chemical substance or any chemical substance as part of a mixture or article into the customs territory of the United States, and includes: (1) the person primarily liable for the payment of any duties on the merchandise, or (2) an authorized agent acting on his behalf (as defined in 19 CFR 1.11). Importer also includes, as appropriate:

(i) The consignee.

(ii) The importer of record.

(iii) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(4) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR Part 144.

For the purpose of this definition, the customs territory of the United States consists of the 50 states, Puerto Rico, and the District of Columbia.

(e) "Import in bulk form" means to import a chemical substance (other than as part of a mixture or article) in any quantity, in cans, bottles, drums, barrels, packages, tanks, bags, or other containers, if the chemical substance is intended to be removed from the container and the substance has an end use or commercial purpose separate from the container.

(f) "Impurity" means a chemical substance which is unintentionally present with another chemical substance.

(g) "Manufacture" means to manufacture for commercial purposes.

(h) (1) "Manufacture for commercial purposes" means to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer, and includes, among other things, such "manufacture" of any amount of a chemical substance or mixture,

(i) For commercial distribution, including for test marketing, and

(ii) For use by the manufacturer, including use for product research and development, or as an intermediate.

(2) Manufacture for commercial purposes also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including both byproducts that are separated from that other substance or mixture and impurities that remain in that substance or mixture. Such byproducts and impurities may, or may not, in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical product for a commercial purpose.

(i) "Person" includes any individual, firm, company, corporation, joint-venture, partnership, sole proprietorship, association, or any other business entity; any State or political subdivision thereof; any municipality; any interstate body; and any department, agency, or instrumentality of the Federal Government.

(j) "PBBs" (polybrominated biphenyls) means chemical substances or mixtures whose compositions, without regard to impurities, consist in whole or part, of brominated byphenyl molecules having the molecular formula $C_{10}H_xBR_y$ where $x+y=10$ and y ranges from 1 to 10.

(k) "Propose to manufacture or import" means that a person has made a management decision to commit financial resources toward the manufacture or import of a chemical substance or mixture.

(l) "Small manufacturer or importer" means a manufacturer or importer whose total annual sales are less than $500,000, based upon the manufacturer's or importer's latest complete fiscal year, except that no manufacturer or importer is a small manufacturer or importer with respect to PBBs or Tris which such person manufactured at one site or imported in quantities greater than 10,000 pounds during the latest calendar year. In the case of a company which is owned or controlled by another company, total annual sales shall be based on the total annual sales of the owned or controlled company, the parent company, and all companies owned or controlled by the parent company taken together.

(m) "Tris" means tris(2,3-dibromopropyl) phosphate (also commonly named DBPP, TBPP, and Tris-BP) and includes all commercially available grades of tris(2,3-dibromopropyl) phosphate.

(n) "TSCA" means the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

§ 713.12 Scope.

This rule establishes procedures governing reporting by persons who manufacture or import or who propose to manufacture or import tris, or PBBs which have been reported for the Inventory.

§ 713.13 Compliance.

Violation of the requirements of this rule may result in civil penalty or criminal prosecution, as provided in sections 15 and 16 of TSCA. In addition, under section 17, the Government may seek judicial relief to compel submission of required information.

§ 713.14 Persons who must report.

Except as provided in § 713.15, the following persons are subject to this rule:

(a) Persons who manufacture or propose to manufacture Tris, or PBBs which have been reported for the Inventory.

(b) Persons who import (importers) or propose to import Tris, or PBBs which have been reported for the Inventory, as a chemical substance in bulk or as part of a mixture.

§ 713.15 Persons not subject to this rule.

The following persons are not subject to this rule:

(a) Persons who are small manufacturers or importers, as defined in § 713.11(1).

(b) Persons who manufacture or import and persons who propose to manufacture or import PBBs or Tris solely for research and development.

(c) Persons who manufacture or import and persons who propose to manufacture or import PBBs or Tris as a byproduct or impurity.

(d) Persons who import or propose to import PBBs or Tris as part of an article.

§ 713.16 Reporting requirements.

(a) Persons subject to this rule as described in § 713.14 must notify EPA of current or proposed manufacture or import of PBBs or Tris. Persons who are manufacturing or importing PBBs or Tris when this rule is promulgated must notify EPA within 30 days of the effective date of the rule. Persons who propose to manufacture or import PBBs

or Tris must notify EPA as soon as they propose to manufacture or import the substance.

(b) The notice must include the following information:

(1) Company name and address.

(2) Principal technical contact.

(3) A description of the use or intended use for the PBBs or Tris.

(4) Estimated number of persons exposed to the PBBs or Tris during manufacture, importation, disposal, processing, distribution, or use.

(5) Quantity (by weight) manufactured or imported within twelve months prior to the effective date of the rule and/or estimated quantity (by weight) to be manufactured or imported in the foreseeable future.

(6) The proposed date for the initiation of manufacturing or importation of PBBs or Tris, if appropriate.

(c) Notices shall be submitted by certified mail to the Document Control Officer, Environmental Protection Agency, Chemical Information Division, Office of Toxic Substances (TS–793), Washington, DC 20460. ATTN: PBB notification or Tris notification.

§ 713.17 Confidentiality claims.

(a) Any person submitting a notice under this rule may assert a business confidentiality claim covering all or any part of the notice. Any information covered by a claim will be disclosed by EPA only to the extent and by means of the procedures set forth in Part 2 of this title.

(b) If no claim accompanies the notice at the time it is submitted to EPA, the notice will be placed in an open file available to the public without further notice to the respondent.

(c) To assert a claim of confidentiality for data contained in a notice, the respondent must submit two copies of the notice.

(1) One copy of the notice must be complete. In that copy the respondent must indicate what data, if any, are claimed as confidential by marking the specific information on each page with a label such as "confidential", "proprietary", or "trade secret".

(2) If some data in the notice are claimed as confidential, the respondent must submit a second copy. The second copy must be complete except that all information claimed as confidential in the first copy must be deleted.

(3) The first copy of the notice will be for internal use by EPA. The second copy will be placed in an open file to be available to the public.

(4) Failure to furnish a second copy of the notice when information is claimed as confidential in the first copy will be considered a presumptive waiver of the claim of confidentiality. EPA will notify the respondent that a finding of a presumptive waiver of the claim of confidentiality has been made. The respondent has 15 days from the date of notification to submit the required second copy. Failure to submit the second copy will cause EPA to place the first copy in the public file.

(d) In submitting a claim of confidentiality, a person attests to the truth of the following four statements concerning all information which is claimed confidential:

(1) My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.

(2) The information is not, and has not been, reasonably obtainable without our consent by other persons (other than government bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).

(3) The information is not publicly available elsewhere.

(4) Disclosure of the information would cause substantial harm to our competitive position.

§ 713.18 Sunset provision.

The reporting requirements of § 713.16 will terminate on May 1, 1984.

FR Doc. 79–31570 Filed 10–11–79; 8:45 am]

BILLING CODE 6560–01–M

federal register

Friday
October 12, 1979

Part VII

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Sections 8 and 23 Housing Assistance Payments Programs; Amendment of Fair Market Rent Schedules, Existing Housing

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 803 and 888

[Docket No. R-79-670]

Sections 8 and 23 Housing Assistance Payments Programs—Amendment of Fair Market Rent Schedules, Existing Housing

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

ACTION: Final rule.

SUMMARY: HUD is amending for selected housing market areas the schedules that set forth the Fair Market Rents for the Section 23 and Section 8 Existing Housing Assistance Payments Programs. The amended schedules are based on (1) field office recommendations developed for data and information provided in public comments, and (2) recommendations developed from field office in-house data sources for areas for which no public comments were received. Fair Market Rents are intended to reflect the average rents currently being charged for available standard units in the applicable county or Standard Metropolitan Statistical Area (SMSA).

EFFECTIVE DATE: November 1, 1979, retroactive to March 29, 1979 only for annual rent adjustments and the PHA administrative fees.

FOR FURTHER INFORMATION CONTACT: Nancy S. Chisholm, Director, Economic and Market Analysis Division, PD&R, HUD, Washington, D.C. 20410, 202–755–4977. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On June 22, 1979, HUD-published in the **Federal Register** (44 FR 36698) for pulblic comment proposed revisions to the schedules which set forth Fair Market Rents for the Section 8 and Section 23 Existing Housing Assistance Payments Programs. Interested parties were given until July 23, 1979, to submit written comments. During the comment period, a large volume of comments were received, making timely analysis and review impractical; in many cases, HUD field offices were required to conduct further review of the data submitted in written comments. HUD also recognized that there was an immediate need to revise the schedules to reflect changes in market conditions since the last general revision of March 29, 1978. Accordingly, on July 26, 1979, HUD published the schedules as they were published for comment on June 22, 1979 and indicated that the schedules would be amended in the near future where warranted.

A total of 518 comments were received in response to the June 22, 1979, **Federal Register** publication. Most of the comments recommended increases in the Fair Market Rent schedules, while others were concerned mostly with the proposed revision of § 882.108(a), which deals with the manner in which Section 8 Contract Rent adjustments are calculated. As a result of public comment and HUD's determination that the rent adjustment policy proposed in the June 22 publication could be confusing to both owners and the Public Housing Agencies administering the program, § 882.108(a) was amended and published in the July 26, 1979, **Federal Register**.

All of the comments on the proposed Fair Market Rents were carefully reviewed by HUD. The Department was particularly interested in comments and information which demonstrated that (1) the new methodology for calculating Fair Market Rents, which incorporates the use of Annual Housing Survey (AHS) data, does not totally reflect current housing conditions in certain areas because of significant changes in local market conditions since the date of the last AHS, (2) Fair Market Rents in some areas, particularly smaller localities, needed modification because their rents differed from the AHS-based Census region median, and (3) the rent inflation factor derived from Consumer Price Index data, which is only available for 4 Census Regions and 24 metropolitan areas, did not fully account for specific local increases in rents, taxes, and utility costs. As a result of this review, HUD is modifying Fair Market Rent Schedules in a total of 575 market areas, including 87 SMSAs and 488 non-metropolitan counties.

Annual rent adjustments and the Public Housing Agency (PHA) administrative fees shall be computed retroactive to the anniversary date of their Contract on or after March 29, 1979. However, rents for Contracts executed since March 29, 1979 do not qualify for a revision at this time.

NEPA

The Department has determined that these regulations do not constitute a major Federal action significantly affecting the quality of the human environment. Accordingly, a Finding of Inapplicability of Environmental Impact has been prepared and is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Accordingly, Title 24, Part 803, Schedule B, and Part 888, Schedule B, are revised as set forth below.

This notice of final rulemaking is issued under the authority of Section 7(d) Department of HUD Act, 42 U.S.C. 3535(d).

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

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

BILLING CODE 4210-01-M

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
SMSA: LEWISTON-AUBURN, ME					
SMSA PART ANDROSCOGGIN	171	193	228	261	288
STATE ME					
SMSA: PORTLAND, ME					
SMSA PART CUMBERLAND	185	225	265	310	365
STATE ME					
SMSA PART YORK	185	225	265	310	365
STATE ME					
NON SMSA					
NONSMSA PART ANDROSCOGGIN	171	193	228	261	288
STATE ME					
COUNTY AROOSTOOK	170	201	237	261	286
STATE ME					
NONSMSA PART CUMBERLAND	171	193	228	261	288
STATE ME					
COUNTY FRANKLIN	162	183	216	239	261
STATE ME					
COUNTY HANCOCK	162	183	216	239	261
STATE ME					
COUNTY KENNEBEC	171	193	228	261	288
STATE ME					
COUNTY KNOX	177	200	236	261	285
STATE ME					
COUNTY LINCOLN	177	200	236	261	285
STATE ME					
COUNTY OXFORD	162	183	216	239	261
STATE ME					
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
COUNTY PENOBSCOT	171	193	228	261	288
STATE ME					
COUNTY PISCATAQUIS	162	183	216	239	261
STATE ME					
COUNTY SAGADAHOC	171	193	228	261	288
STATE ME					
COUNTY SOMERSET	177	200	236	261	285
STATE ME					
COUNTY WALDO	162	183	216	239	261
STATE ME					
COUNTY WASHINGTON	162	183	216	239	261
STATE ME					
SMSA: FALL RIVER, MA-RI					
SMSA PART BRISTOL	192	220	260	300	328
STATE MA					
SMSA: LAWRENCE-HAVERHILL, MA-NH					
SMSA PART ESSEX	214	247	288	349	394
STATE MA					
SMSA: PROVIDENCE-WARWICK-PAWTUCKET, RI-MA					
SMSA PART BRISTOL	192	220	260	300	328
STATE MA					
SMSA PART NORFOLK	192	220	260	300	328
STATE MA					
SMSA PART WORCESTER	192	220	260	300	328
STATE MA					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
SMSA: WORCESTER, MA					
SMSA PART: WORCESTER	216	247	288	332	364
STATE MA					
NON SMSA					
COUNTY BARNSTABLE	234	265	315	366	408
STATE MA					
NONSMSA PART BRISTOL	189	216	254	293	320
STATE MA					
COUNTY DUKES	234	265	315	366	408
STATE MA					
NONSMSA PART: ESSEX	205	237	287	331	383
STATE MA					
COUNTY FRANKLIN	200	235	277	307	338
STATE MA					
NONSMSA PART HAMPDEN	185	213	251	289	317
STATE MA					
NONSMSA PART HAMPSHIRE	185	213	251	289	317
STATE MA					
COUNTY NANTUCKET	219	245	295	322	369
STATE MA					
NONSMSA PART PLYMOUTH	195	224	267	311	354
STATE MA					
COUNTY ADDISON	184	210	250	302	327
STATE VT					
COUNTY BENNINGTON	184	210	250	302	327
STATE VT					
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
COUNTY CALEDONIA	169	200	237	285	313
STATE VT					
COUNTY CHITTENDEN	184	210	250	302	327
STATE VT					
COUNTY ESSEX	164	187	220	243	267
STATE VT					
COUNTY FRANKLIN	169	200	237	285	313
STATE VT					
COUNTY GRAND ISLE	169	200	237	285	313
STATE VT					
COUNTY LAMOILLE	164	187	220	243	267
STATE VT					
COUNTY ORANGE	169	200	237	285	313
STATE VT					
COUNTY ORLEANS	169	200	237	285	313
STATE VT					
COUNTY RUTLAND	184	210	250	302	327
STATE VT					
COUNTY WASHINGTON	169	200	237	285	313
STATE VT					
COUNTY WINDHAM	184	210	250	302	327
STATE VT					
COUNTY WINDSOR	184	210	250	302	327
STATE VT					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
SMSA: LAWRENCE-HAVERHILL, MA-NH					
SMSA PART ROCKINGHAM	214	247	288	349	394
STATE NH					
SMSA: MANCHESTER, NH					
SMSA PART HILLSBOROUGH	205	247	294	338	382
STATE NH					
SMSA PART MERRIMACK	205	247	294	338	382
STATE NH					
SMSA PART ROCKINGHAM	205	247	294	338	382
STATE NH					
SMSA NASHUA, NH					
SMSA PART HILLSBOROUGH	205	247	294	338	382
STATE NH					
NON SMSA					
COUNTY BELKNAP	183	210	249	277	303
STATE NH					
COUNTY CARROLL	170	196	230	256	282
STATE NH					
COUNTY CHESHIRE	191	220	261	292	322
STATE NH					
COUNTY COOS	170	196	230	256	282
STATE NH					
COUNTY GRAFTON	173	203	238	269	300
STATE NH					
NONSMSA PART HILLSBOROUGH	183	209	249	287	315
STATE NH					
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
NONSMSA PART MERRIMACK	183	209	249	287	315
STATE NH					
NONSMSA PART ROCKINGHAM	190	217	258	297	325
STATE NH					
COUNTY STRAFFORD	183	210	249	277	303
STATE NH					
COUNTY SULLIVAN	183	210	249	277	303
STATE NH					
SMSA: FALL RIVER, MA-RI					
SMSA PART NEWPORT	192	220	260	300	328
STATE RI					
SMSA: NEW LONDON-NORWICH, CT-RI					
SMSA PART WASHINGTON	178	216	254	292	330
STATE RI					
SMSA, PROVIDENCE-WARWICK-PAWTUCKET, RI-MA					
SMSA PART BRISTOL	192	220	260	300	328
STATE RI					
SMSA PART KENT	192	220	260	300	328
STATE RI					
SMSA PART NEWPORT	192	220	260	300	328
STATE RI					
SMSA PART PROVIDENCE	192	220	260	300	328
STATE RI					
SMSA PART WASHINGTON	192	220	260	300	328
STATE RI					

NOTE, FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 1	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MASSACHUSETTS AREA OFFICE					
NON SMSA					
NONSMSA PART KENT STATE RI	188	216	255	295	322
NONSMSA PART NEWPORT STATE RI	203	228	272	300	332
NONSMSA PART PROVIDENCE STATE RI	188	216	255	295	322
NONSMSA PART WASHINGTON STATE RI	188	216	255	295	322
HARTFORD, CONNECTICUT AREA OFFICE					
SMSA: DANBURY, CT					
SMSA PART FAIRFIELD STATE CT	188	228	268	308	348
SMSA PART LITCHFIELD STATE CT	188	228	268	308	348
SMSA: NEW HAVEN-WEST HAVEN, CT					
SMSA PART MIDDLESEX STATE CT	207	250	295	339	383
SMSA PART NEW HAVEN STATE CT	207	250	295	339	383
SMSA: NEW LONDON-NORWICH, CT-RI					
SMSA PART MIDDLESEX STATE CT	178	216	254	292	330
SMSA PART NEW LONDON STATE CT	178	216	254	292	330
SMSA: NORWALK, CT					
SMSA PART FAIRFIELD STATE CT	233	283	333	383	433
SMSA: STAMFORD, CT					
SMSA PART FAIRFIELD STATE CT	246	298	351	404	456
NON SMSA					
NONSMSA PART MIDDLESEX STATE CT	178	216	254	292	330
NONSMSA PART TOLLAND STATE CT	207	251	295	339	383

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BUFFALO, NEW YORK AREA OFFICE					
NON SMSA					
COUNTY: CHENANGO STATE: NY	164	180	224	249	275
COUNTY: CLINTON STATE: NY	155	178	210	233	257
COUNTY: SCHOHARIE STATE: NY	152	174	207	230	253
SMSA: BUFFALO, NY					
COUNTY: ERIE STATE: NY	158	212	235	254	300
COUNTY: NIAGARA STATE: NY	158	212	235	254	300
SMSA: ELMIRA, NY					
COUNTY: CHEMUNG STATE: NY	161	185	230	264	298
NON SMSA					
COUNTY: SCHUYLER STATE: NY	149	177	213	225	266
COUNTY: SENECA STATE: NY	179	208	244	271	300
COUNTY: STEUBEN STATE: NY	149	171	205	235	265
NEW YORK, NEW YORK AREA OFFICE					
SMSA: NASSAU-SUFFOLK, NY					
COUNTY: NASSAU STATE: NY	267	329	382	439	497
COUNTY: SUFFOLK STATE: NY	267	329	382	439	497
SMSA: NEW YORK CITY, NY-NJ					
COUNTY: BRONX STATE: NY	243	294	347	399	452
COUNTY: KINGS STATE: NY	243	294	347	399	452
COUNTY: NEW YORK STATE: NY	243	294	347	399	452
COUNTY: PUTNAM STATE: NY	243	294	347	399	452
COUNTY: QUEENS STATE: NY	243	294	347	399	452
COUNTY: RICHMOND STATE: NY	243	294	347	399	452
COUNTY: ROCKLAND STATE: NY	243	294	347	399	452
COUNTY: WESTCHESTER STATE: NY	243	294	347	399	452
SMSA: POUGHKEEPSIE, NY					
COUNTY: DUTCHESS STATE: NY	191	219	248	286	323
NON SMSA					
COUNTY: ORANGE STATE: NY	182	219	260	288	317

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 2	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEWARK, NEW JERSEY AREA OFFICE					
SMSA: ATLANTIC CITY, NJ					
COUNTY ATLANTIC	160	194	228	262	296
STATE NJ					
SMSA: TRENTON, NJ					
COUNTY MERCER	179	217	255	293	332
STATE NJ					
SMSA: VINELAND-MILLVILLE-BRIDGETON, NJ					
COUNTY CUMBERLAND	179	218	256	294	333
STATE NJ					
NON SMSA					
COUNTY OCEAN	221	268	315	362	410
STATE NJ					
SMSA: ALLENTOWN-BETHLEHEM-EASTON, PA-NJ					
COUNTY WARREN	196	232	268	299	329
STATE NJ					
SMSA: JERSEY CITY, NJ					
COUNTY HUDSON	176	214	252	290	328
STATE NJ					
SMSA: LONG BRANCH-ASBURY PARK, NJ					
COUNTY MONMOUTH	211	257	302	347	393
STATE NJ					
SMSA: NEW BRUNSWICK-PERTH AMBOY-SAYREVILLE, NJ					
COUNTY MIDDLESEX	216	261	308	353	400
STATE NJ					
SMSA: NEW YORK CITY, NY-NJ					
COUNTY BERGEN	243	294	347	399	452
STATE NJ					
SMSA: NEWARK, NJ					
COUNTY ESSEX	235	262	312	344	378
STATE NJ					
COUNTY MORRIS	235	262	312	344	378
STATE NJ					
COUNTY SOMERSET	235	262	312	344	378
STATE NJ					
COUNTY UNION	235	262	312	344	378
STATE NJ					
NON SMSA					
COUNTY HUNTERDON	221	268	315	362	410
STATE NJ					
COUNTY SUSSEX	228	276	325	374	423
STATE NJ					
CARIBBEAN AREA OFFICE					
SMSA: SAN JUAN					
MUNICIPIO:ALL	221	269	317	364	412
STATE:PR					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BALTIMORE, MARYLAND AREA OFFICE					
SMSA: BALTIMORE, MD					
COUNTY: ANNE ARUNDEL STATE: MD	201	250	287	359	396
COUNTY: BALTIMORE STATE: MD	201	250	287	359	396
COUNTY: CARROLL STATE: MD	201	250	287	359	396
COUNTY: HARFORD STATE: MD	201	250	287	359	396
COUNTY: HOWARD STATE: MD	201	250	287	359	396
-COLUMBIA(U) STATE: MD	239	298	341	409	443
INDEP CITY: BALTIMORE STATE: MD	201	250	287	359	396
NON SMSA					
COUNTY: CALVERT STATE: MD	198	241	283	326	368
COUNTY: FREDERICK STATE: MD	184	224	263	302	342
PHILADELPHIA, PENNSYLVANIA AREA OFFICE					
SMSA: ALLENTOWN-BETHLEHEM-EASTON, PA-NJ					
COUNTY: CARBON STATE: PA	196	232	268	299	329
COUNTY: LEHIGH STATE: PA	196	232	268	299	329
COUNTY: NORTHAMPTON STATE: PA	196	232	268	299	329
SMSA: HARRISBURG, PA					
COUNTY: CUMBERLAND STATE: PA	194	223	266	308	338
COUNTY: DAUPHIN STATE: PA	194	223	266	308	338
COUNTY: PERRY STATE: PA	194	223	266	308	338
SMSA: LANCASTER, PA					
COUNTY: LANCASTER STATE: PA	160	195	238	284	309
SMSA: YORK, PA					
COUNTY: ADAMS STATE: PA	166	200	236	294	333
COUNTY: YORK STATE: PA	166	200	236	294	333
NON SMSA					
COUNTY: BRADFORD STATE: PA	156	181	209	250	278
COUNTY: CENTRE STATE: PA	145	174	206	229	255

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PHILADELPHIA, PENNSYLVANIA AREA OFFICE					
NON SMSA					
COUNTY CLINTON STATE PA	145	174	206	229	255
COUNTY COLUMBIA STATE PA	161	187	223	246	274
COUNTY FRANKLIN STATE PA	145	174	206	229	255
COUNTY JUNIATA STATE PA	126	159	188	209	234
COUNTY LEBANON STATE PA	148	170	201	233	258
COUNTY MIFFLIN STATE PA	126	159	188	209	234
COUNTY NORTHUMBRLND STATE PA	145	168	199	221	246
COUNTY PIKE STATE PA	168	194	232	255	284
COUNTY SCHUYLKILL STATE PA	162	190	230	255	283
COUNTY SNYDER STATE PA	126	159	188	209	234
COUNTY SULLIVAN STATE PA	129	159	198	222	239
COUNTY TIOGA STATE PA	156	181	209	250	278
COUNTY UNION STATE PA	126	159	188	209	234
COUNTY WYOMING STATE PA	141	164	195	251	278

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 3	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PITTSBURGH, PENNSYLVANIA AREA OFFICE					
SMSA: WHEELING, WV-OH					
COUNTY: MARSHALL STATE: WV	151	173	210	247	271
COUNTY: OHIO STATE: WV	151	173	210	247	271
NON SMSA					
COUNTY: FAYETTE STATE: PA	140	165	200	225	250
RICHMOND, VIRGINIA AREA OFFICE					
NON SMSA					
COUNTY: CULPEPER STATE: VA	172	211	255	287	321
COUNTY: DICKENSON STATE: VA	152	165	197	218	275
COUNTY: FAUQUIER STATE: VA	172	209	250	295	345
COUNTY: RUSSELL STATE: VA	164	183	231	251	298
COUNTY: TAZEWELL STATE: VA	164	183	231	251	298
COUNTY: WISE STATE: VA	164	183	231	251	298

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GEORGIA AREA OFFICE					
SMSA: ATLANTA, GA					
COUNTY: BUTTS STATE: GA	186	227	266	306	347
COUNTY: CHEROKEE STATE: GA	186	227	266	306	347
COUNTY: CLAYTON STATE: GA	186	227	266	306	347
COUNTY: COBB STATE: GA	186	227	266	306	347
COUNTY: DE KALB STATE: GA	186	227	266	306	347
COUNTY: DOUGLAS STATE: GA	186	227	266	306	347
COUNTY: FAYETTE STATE: GA	186	227	266	306	347
COUNTY: FORSYTH STATE: GA	186	227	266	306	347
COUNTY: FULTON STATE: GA	186	227	266	306	347
COUNTY: GWINNETT STATE: GA	186	227	266	306	347
COUNTY: HENRY STATE: GA	186	227	266	306	347
COUNTY: NEWTON STATE: GA	186	227	266	306	347
COUNTY: PAULDING STATE: GA	186	227	266	306	347
COUNTY: ROCKDALE STATE: GA	186	227	266	306	347
COUNTY: WALTON STATE: GA	186	227	266	306	347
SMSA: SAVANNAH, GA					
COUNTY: BRYAN STATE: GA	196	209	238	274	308
COUNTY: CHATHAM STATE: GA	196	209	238	274	308
COUNTY: EFFINGHAM STATE: GA	196	209	238	274	308
NON SMSA					
COUNTY: GLYNN STATE: GA	164	199	234	270	305
COUNTY: SUMTER STATE: GA	166	202	238	274	309

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BIRMINGHAM, ALABAMA AREA OFFICE					
SMSA: FLORENCE, AL					
COUNTY: COLBERT STATE: AL	157	192	228	260	294
COUNTY: LAUDERDALE STATE: AL	157	192	228	260	294
NON SMSA					
COUNTY: TALLADEGA STATE: AL	138	168	197	227	258
GREENSBORO, NORTH CAROLINA AREA OFFICE					
SMSA: GREENSBORO--WINSTON-SALEM--HIGH POINT, NC					
COUNTY: DAVIDSON STATE: NC	163	198	233	268	303
COUNTY: FORSYTH STATE: NC	163	198	233	268	303
COUNTY: GUILFORD STATE: NC	163	198	233	268	303
COUNTY: RANDOLPH STATE: NC	163	198	233	268	303
COUNTY: STOKES STATE: NC	163	198	233	268	303
COUNTY: YADKIN STATE: NC	163	198	233	268	303
NON SMSA					
COUNTY: ALLEGHANY STATE: NC	147	179	211	243	274
COUNTY: ANSON STATE: NC	163	198	233	268	303
COUNTY: ASHE STATE: NC	147	179	211	243	274
COUNTY: AVERY STATE: NC	147	179	211	243	274
COUNTY: CAMDEN STATE: NC	174	212	249	287	324
COUNTY: CHEROKEE STATE: NC	141	171	202	232	262

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO, NORTH CAROLINA AREA OFFICE					
NON SMSA					
COUNTY: CHOWAN STATE: NC	174	212	249	287	324
COUNTY: GATES STATE: NC	174	212	249	287	324
COUNTY: MITCHELL STATE: NC	147	179	211	243	274
COUNTY: PASQUOTANK STATE: NC	174	212	249	287	324
COUNTY: PERQUIMANS STATE: NC	174	212	249	287	324
COUNTY: PERSON STATE: NC	181	220	259	297	336
COUNTY: POLK STATE: NC	147	179	211	243	274
COUNTY: RICHMOND STATE: NC	163	198	233	268	303
COUNTY: SURRY STATE: NC	163	198	233	268	303
COUNTY: WARREN STATE: NC	181	220	259	297	336
COUNTY: WILKES STATE: NC	147	179	211	243	274
COUNTY: YANCEY STATE: NC	147	179	211	243	274
JACKSON, MISSISSIPPI AREA OFFICE					
SMSA: BILOXI-GULFPORT, MS					
COUNTY: HANCOCK STATE: MS	155	189	222	270	317
COUNTY: HARRISON STATE: MS	155	189	222	270	317
COUNTY: STONE STATE: MS	155	189	222	270	317
SMSA: JACKSON, MS					
COUNTY: HINDS STATE: MS	173	210	247	284	321
COUNTY: RANKIN STATE: MS	173	210	247	284	321
SMSA: PASCAGOULA-MOSS POINT, MS					
COUNTY: JACKSON STATE: MS	155	189	222	270	317
NON SMSA					
COUNTY: ADAMS STATE: MS	138	161	189	234	258
COUNTY: ALCORN STATE: MS	149	170	201	231	261
COUNTY: AMITE STATE: MS	138	161	189	234	258
COUNTY: ATTALA STATE: MS	150	166	198	240	263
COUNTY: BENTON STATE: MS	150	180	210	240	272

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSON, MISSISSIPPI AREA OFFICE					
NON SMSA					
COUNTY: BOLIVAR STATE: MS	151	163	199	235	260
COUNTY: CALHOUN STATE: MS	151	184	215	247	298
COUNTY: CARROLL STATE: MS	150	166	198	240	263
COUNTY: CHICKASAW STATE: MS	149	170	201	231	261
COUNTY: CLAIBORNE STATE: MS	150	166	198	240	263
COUNTY: CLAY STATE: MS	142	173	203	233	264
COUNTY: COAHOMA STATE: MS	153	186	219	252	284
COUNTY: COPIAH STATE: MS	150	166	198	240	263
COUNTY: FRANKLIN STATE: MS	138	161	189	234	258
COUNTY: GEORGE STATE: MS	148	160	210	242	276
COUNTY: GREENE STATE: MS	148	180	210	242	276
COUNTY: GRENADA STATE: MS	150	166	198	240	263
COUNTY: HOLMES STATE: MS	150	166	198	240	263
COUNTY: HUMPHREYS STATE: MS	151	163	199	235	260
COUNTY: ISSAQUENA STATE: MS	151	163	199	235	260
COUNTY: ITAWAMBA STATE: MS	149	170	201	231	261
COUNTY: JEFFERSON STATE: MS	138	161	189	234	258
COUNTY: JEFFERSON DA STATE: MS	138	161	189	234	258
COUNTY: LAFAYETTE STATE: MS	150	180	210	240	272
COUNTY: LAWRENCE STATE: MS	138	161	189	234	258
COUNTY: LEAKE STATE: MS	130	158	187	215	243
COUNTY: LEE STATE: MS	142	173	203	233	264
COUNTY: LEFLORE STATE: MS	150	166	198	240	263
COUNTY: LINCOLN STATE: MS	138	161	189	234	258

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSON, MISSISSIPPI AREA OFFICE					
NON SMSA					
COUNTY: LOWNDES STATE: MS	150	172	204	233	264
COUNTY: MADISON STATE: MS	150	166	198	240	263
COUNTY: MARION STATE: MS	130	157	185	213	242
COUNTY: MARSHALL STATE: MS	150	180	210	240	272
COUNTY: MONROE STATE: MS	151	184	215	247	298
COUNTY: MONTGOMERY STATE: MS	130	158	187	215	243
COUNTY: NOXUBEE STATE: MS	142	173	203	233	264
COUNTY OKTIBBEHA STATE: MS	163	199	234	269	304
COUNTY PANOLA STATE: MS	150	180	210	240	272
COUNTY, PEARL RIVER STATE: MS	133	160	193	247	291
COUNTY: PIKE STATE: MS	138	161	189	234	258
COUNTY: PONTOTOC STATE MS	149	170	201	231	261
COUNTY. PRENTISS STATE: MS	149	170	201	231	261
COUNTY: QUITMAN STATE. MS	150	180	210	240	272
COUNTY, SCOTT STATE: MS	130	158	187	215	243
COUNTY: SHARKEY STATE. MS	151	163	199	235	260
COUNTY: SIMPSON STATE. MS	150	166	198	240	263
COUNTY. SMITH STATE: MS	130	158	187	215	243
COUNTY SUNFLOWER STATE: MS	151	163	199	235	260
COUNTY: TALLAHATCHIE STATE. MS	130	158	187	215	243
COUNTY. TATE STATE: MS	150	180	210	240	272
COUNTY, TIPPAH STATE: MS	153	186	219	252	284
COUNTY TISHOMIGO STATE: MS	149	170	201	231	261
COUNTY: TUNICA STATE: MS	150	180	210	240	272

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSON, MISSISSIPPI AREA OFFICE					
NON SMSA					
COUNTY UNION STATE MS	151	184	215	247	298
COUNTY WALTHALL STATE MS	138	161	189	234	258
COUNTY WARREN STATE MS	150	166	198	240	263
COUNTY WASHINGTON STATE MS	151	163	199	235	260
COUNTY WEBSTER STATE MS	142	173	203	233	264
COUNTY WILKINSON STATE MS	132	161	189	217	245
COUNTY YALOBUSHA STATE MS	130	158	187	215	243
COUNTY YAZOO STATE MS	150	166	198	240	263
JACKSONVILLE, FLORIDA AREA OFFICE					
NON SMSA					
COUNTY COLLIER STATE FL	197	240	282	324	367
SMSA: TAMPA-ST PETERSBURG, FL					
COUNTY HILLSBOROUGH STATE FL	172	210	261	326	363
COUNTY PASCO STATE FL	172	210	261	326	363
COUNTY PINELLAS STATE FL	172	210	261	326	363

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U S DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
SMSA EVANSVILLE, IN-KY					
COUNTY HENDERSON STATE KY	138	170	201	218	238
SMSA LEXINGTON FAYETTE , KY					
COUNTY BOURBON STATE KY	167	203	249	294	341
COUNTY CLARK STATE KY	167	203	249	294	341
COUNTY FAYETTE STATE KY	167	203	249	294	341
COUNTY JESSAMINE STATE KY	167	203	249	294	341
COUNTY SCOTT STATE KY	167	203	249	294	341
COUNTY WOODFORD STATE KY	167	203	249	294	341
NON SMSA					
COUNTY ADAIR STATE KY	140	170	197	224	248
COUNTY ALLEN STATE KY	140	170	197	224	248
COUNTY BARREN STATE KY	140	170	197	224	248
COUNTY BELL STATE KY	140	170	197	224	248
COUNTY BOYLE STATE KY	160	180	218	260	267
LOUISVILLE, KENTUCKY AREA OFFICE					
NON SMSA					
COUNTY BREATHITT STATE KY	140	170	197	224	248
COUNTY BUTLER STATE KY	140	170	197	224	248
COUNTY CALDWELL STATE KY	144	175	206	237	268
COUNTY CARTER STATE KY	160	180	218	260	267
COUNTY CLAY STATE KY	140	170	197	224	248
COUNTY CLINTON STATE KY	140	170	197	224	248
COUNTY CRITTENDON STATE KY	144	175	206	237	268
COUNTY CUMBERLAND STATE KY	140	170	197	224	248
COUNTY EDMONSON STATE KY	140	170	197	224	248
COUNTY ELLIOTT STATE KY	133	160	192	260	280
COUNTY GREEN STATE KY	140	170	197	224	248
COUNTY HANCOCK STATE KY	137	167	206	237	268

NOTE. FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
NON SMSA					
COUNTY: HARLAN STATE: KY	140	170	197	224	248
COUNTY: HARRISON STATE: KY	167	203	250	288	325
COUNTY: HOPKINS STATE: KY	137	167	206	237	268
COUNTY: JACKSON STATE: KY	140	170	197	224	248
COUNTY: KNOTT STATE: KY	140	170	197	224	248
COUNTY: KNOX STATE: KY	140	170	197	224	248
COUNTY: LAUREL STATE: KY	140	170	197	224	248
COUNTY: LAWRENCE STATE: KY	133	160	192	260	280
COUNTY: LEE STATE: KY	140	170	197	224	248
COUNTY: LESLIE STATE: KY	140	170	197	224	248
COUNTY: LETCHER STATE: KY	140	170	197	224	248
COUNTY: LOGAN STATE: KY	144	175	206	237	268
COUNTY: LYON STATE: KY	144	175	206	237	268
COUNTY: MCCRACKEN STATE: KY	149	176	207	238	270
COUNTY: MCCREARY STATE: KY	140	170	197	224	248
COUNTY: MCLEAN STATE: KY	137	167	206	237	268
COUNTY: MADISON STATE: KY	167	203	250	288	325
COUNTY: MAGOFFIN STATE: KY	140	170	197	224	248
COUNTY: MARSHALL STATE: KY	149	176	207	238	270
COUNTY: MENIFEE STATE: KY	140	170	197	224	248
COUNTY: METCALFE STATE: KY	140	170	197	224	248
COUNTY: MONROE STATE: KY	140	170	197	224	248
COUNTY: MONTGOMERY STATE: KY	167	203	250	288	325
COUNTY: MORGAN STATE: KY	140	170	197	224	248

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOUISVILLE, KENTUCKY AREA OFFICE					
NON SMSA					
COUNTY:MUHLENBERG STATE:KY	137	167	206	237	268
COUNTY:OWSLEY STATE:KY	140	170	197	224	248
COUNTY:PERRY STATE:KY	140	170	197	224	248
COUNTY:PIKE STATE:KY	140	170	197	224	248
COUNTY:POWELL STATE:KY	140	170	197	234	248
COUNTY:PULASKI STATE:KY	140	170	197	224	248
COUNTY:ROCKCASTLE STATE:KY	140	170	197	224	248
COUNTY:SIMPSON STATE:KY	140	170	197	224	248
COUNTY:TAYLOR STATE:KY	140	170	197	224	248
COUNTY:UNION STATE:KY	137	167	206	237	268
COUNTY:WARREN STATE:KY	140	170	197	224	248
COUNTY:WAYNE STATE:KY	140	170	197	224	248
COUNTY:WEBSTER STATE:KY	137	167	206	237	268
COUNTY:WHITLEY STATE:KY	140	170	197	234	248

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 4	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KNOXVILLE, TENNESSEE AREA OFFICE					
SMSA: KNOXVILLE, TN					
COUNTY: ANDERSON STATE: TN	156	190	224	293	320
COUNTY: BLOUNT STATE: TN	156	190	224	293	320
COUNTY: KNOX STATE: TN	156	190	224	293	320
COUNTY: UNION STATE: TN	156	190	224	293	320
NON SMSA					
COUNTY: MADISON STATE: TN	140	171	201	232	261
REGION 5					
CHICAGO, ILLINOIS AREA OFFICE					
SMSA: CHICAGO, IL					
COUNTY: COOK STATE: IL	241	273	322	373	421
COUNTY: DU PAGE STATE: IL	241	273	322	373	421
COUNTY: KANE STATE: IL	241	273	322	373	421
COUNTY: LAKE STATE: IL	241	273	322	373	421
COUNTY: MCHENRY STATE: IL	241	273	322	373	421
COUNTY: WILL STATE: IL	241	273	322	373	421
SMSA: ROCKFORD, IL					
COUNTY: BOONE STATE: IL	175	220	268	300	348
COUNTY: WINNEBAGO STATE: IL	175	220	268	300	348
NON SMSA					
COUNTY: JACKSON STATE: IL	155	200	254	290	350

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBUS, OHIO AREA OFFICE					
SMSA: LIMA, OH					
COUNTY:PUTNAM STATE:OH	167	193	232	267	295
COUNTY:ALLEN STATE:OH	167	193	232	267	295
COUNTY:AUGLAIZE STATE:OH	167	193	232	267	295
COUNTY:VAN WERT STATE:OH	167	193	232	267	295
SMSA: WHEELING, WV-OH					
COUNTY:BELMONT STATE:OH	151	173	210	247	271
NON SMSA					
COUNTY:ATHENS STATE:OH	147	190	240	270	305
COUNTY:LICKING STATE:OH	146	177	208	240	271
COUNTY:PIKE STATE:OH	142	165	200	222	246
COUNTY:SHELBY STATE:OH	146	170	205	240	262
DETROIT, MICHIGAN AREA OFFICE					
NON SMSA					
COUNTY:LENAWEE STATE:MI	161	195	230	264	299
COUNTY:MIDLAND STATE:MI	177	215	253	291	329
COUNTY:OGEMAW STATE:MI	160	194	243	263	297
COUNTY:SANILAC STATE:MI	160	194	228	263	297
COUNTY:CHIPPEWA STATE:MI	160	194	243	263	297
COUNTY:CLARE STATE:MI	160	194	243	263	297
COUNTY:CRAWFORD STATE:MI	160	194	243	263	297
COUNTY:DELTA STATE:MI	155	182	234	256	289
COUNTY:DICKINSON STATE:MI	155	182	234	256	289
COUNTY:GOGEBIC STATE:MI	160	196	217	243	274
COUNTY GRD TRAVERSE STATE:MI	194	223	252	292	361
COUNTY:GRATIOT STATE:MI	160	194	228	263	297

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DETROIT, MICHIGAN AREA OFFICE					
NON SMSA					
COUNTY:HOUGHTON STATE:MI	155	182	234	256	289
COUNTY:IRON STATE:MI	155	182	234	256	289
COUNTY:LAKE STATE:MI	155	182	234	256	289
COUNTY:MACKINAC STATE:MI	160	194	243	263	297
COUNTY:MANISTEE STATE:MI	155	182	234	256	289
COUNTY:MARQUETTE STATE:MI	155	182	234	256	289
COUNTY:MASON STATE:MI	155	182	234	256	289
COUNTY:MISSAUKEE STATE:MI	155	182	234	256	289
COUNTY:ONTONAGON STATE:MI	160	196	217	243	274
COUNTY:OSCEOLA STATE:MI	155	182	234	256	289
COUNTY:OTSEWO STATE:MI	160	194	243	263	297
COUNTY:ROSCOMMON STATE:MI	160	194	243	263	297
COUNTY:WEXFORD STATE:MI	155	182	234	256	289

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
INDIANAPOLIS, INDIANA AREA OFFICE					
SMSA: EVANSVILLE, IN-KY					
COUNTY:GIBSON STATE:IN	138	170	201	218	238
COUNTY:POSEY STATE:IN	138	170	201	218	238
COUNTY:VANDERBURGH STATE:IN	138	170	201	218	238
COUNTY:WARRICK STATE:IN	138	170	201	218	238
NON SMSA					
COUNTY:DAVIESS STATE:IN	180	200	240	265	295
COUNTY:DUBOIS STATE:IN	180	200	240	265	295
COUNTY:MARTIN STATE:IN	180	200	240	265	295
COUNTY:PERRY STATE:IN	180	200	240	265	295
COUNTY:PIKE STATE:IN	180	200	240	265	295
COUNTY:SPENCER STATE:IN	180	200	240	265	295
MILWAUKEE, WISCONSIN AREA OFFICE					
SMSA: DULUTH-SUPERIOR, MN-WI					
COUNTY:DOUGLAS STATE:WI	186	213	258	285	315
SMSA: JANESVILLE-BELOIT,WI					
COUNTY:ROCK STATE:WI	160	194	228	263	297
SMSA: MILWAUKEE, WI					
COUNTY:MILWAUKEE STATE:WI	195	235	277	319	361
COUNTY:OZAUKEE STATE:WI	195	235	277	319	361
COUNTY:WASHINGTON STATE:WI	195	235	277	319	361
COUNTY:WAUKESHA STATE:WI	195	235	277	319	361

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE					
SMSA: DULUTH-SUPERIOR, MN-WI					
COUNTY: ST LOUIS STATE: MN	186	213	258	285	315
SMSA: FARGO-MOORHEAD, ND-MN COUNTY: CLAY STATE: MN	**175**	**200**	**260**	**300**	**320**
SMSA: GRAND FORKS, N.D.-MN					
COUNTY: POLK STATE: MN	175	210	250	290	315
SMSA: ROCHESTER, MN					
COUNTY: OLMSTED STATE: MN	187	227	267	307	347
NON SMSA					
COUNTY: AITKIN STATE: MN	132	159	188	216	245
COUNTY: BELTRAMI STATE: MN	132	159	188	216	245
COUNTY: BIG STONE STATE: MN	132	159	188	216	245
COUNTY: BROWN STATE: MN	169	206	242	278	315
COUNTY: CARLTON STATE: MN	169	206	242	278	315
COUNTY: CASS STATE: MN	132	159	188	216	245
COUNTY: CHIPPEWA STATE: MN	132	159	188	216	245
COUNTY: COTTONWOOD STATE: MN	132	159	188	216	245
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE					
NON SMSA					
COUNTY: CROW WING STATE: MN	169	206	242	278	315
COUNTY: DODGE STATE: MN	169	206	242	278	315
COUNTY: DOUGLAS STATE: MN	132	159	188	216	245
COUNTY: FARIBAULT STATE: MN	169	206	242	278	315
COUNTY: FILLMORE STATE: MN	169	206	242	278	315
COUNTY: FREEBORN STATE: MN	169	206	242	278	315
COUNTY: GRANT STATE: MN	132	159	188	216	245
COUNTY: HUBBARD STATE: MN	132	159	188	216	245
COUNTY: ITASCA STATE: MN	169	206	242	278	315
COUNTY: KANDIYOHI STATE: MN	169	206	242	278	315
COUNTY: LAC QUI PARL STATE: MN	132	159	188	216	245
COUNTY: LAKE OF WOOD STATE: MN	132	159	188	216	245

NOTE FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 5	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MINNEAPOLIS-ST. PAUL, MINNESOTA AREA OFFICE					
NON SMSA					
COUNTY: LE SUEUR STATE: MN	169	206	242	278	315
COUNTY: MCLEOD STATE: MN	169	206	242	278	315
COUNTY: MARTIN STATE: MN	169	206	242	278	315
COUNTY: MEEKER STATE: MN	169	206	242	278	315
COUNTY: MORRISON STATE: MN	169	206	242	278	315
COUNTY: MOWER STATE: MN	169	206	242	278	315
COUNTY: NICOLLET STATE: MN	169	206	242	278	315
COUNTY: POPE STATE: MN	132	159	188	216	245
COUNTY: REDWOOD STATE: MN	132	159	188	216	245
COUNTY: RENVILLE STATE: MN	132	159	188	216	245
COUNTY: SIBLEY STATE: MN	169	206	242	278	315
COUNTY: STEELE STATE: MN	169	206	242	278	315
COUNTY: STEVENS STATE: MN	132	159	188	216	245
COUNTY: SWIFT STATE: MN	132	159	188	216	245
COUNTY: TODD STATE: MN	132	159	188	216	245
COUNTY: TRAVERSE STATE: MN	132	159	188	216	245
COUNTY: WABASHA STATE: MN	169	206	242	278	315
COUNTY: WADENA STATE: MN	132	159	188	216	245
COUNTY: WASECA STATE: MN	169	206	242	278	315
COUNTY: WATONWAN STATE: MN	169	206	242	278	315
COUNTY: WINONA STATE: MN	154	187	220	254	287
COUNTY: YELLOW MEDIC STATE: MN	132	159	188	216	245

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TEXAS AREA OFFICE					
NON SMSA					
COUNTY: SAN JUAN STATE: NM	151	184	216	249	281
SMSA: TEXARKANA, TX-AR					
COUNTY: BOWIE STATE: TX	129	157	185	213	241
NON SMSA					
COUNTY: DELTA STATE: TX	113	137	161	185	210
COUNTY: FRANKLIN STATE: TX	113	137	161	185	210
COUNTY: LAMAR STATE: TX	129	157	185	213	241
COUNTY: TITUS STATE: TX	119	145	170	196	221
SMSA: GALVESTON-TEXAS CITY, TX					
COUNTY: GALVESTON STATE: TX	175	212	250	288	325
NON SMSA					
COUNTY: HOCKLEY STATE: TX	129	157	185	213	241
LITTLE ROCK, ARKANSAS AREA OFFICE					
SMSA: FORT SMITH, AR-OK					
COUNTY: CRAWFORD STATE: AR	131	159	187	215	243
COUNTY: SEBASTIAN STATE: AR	131	159	187	215	243
SMSA: TEXARKANA, TX-AR					
COUNTY: LITTLE RIVER STATE: AR	129	157	185	213	241
COUNTY: MILLER STATE: AR	129	157	185	213	241

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW ORLEANS, LOUISIANA AREA OFFICE					
SMSA: LAFAYETTE, LA					
PARISH LAFAYETTE STATE LA	154	187	220	253	286
NON SMSA					
PARISH TANGIPAHOA STATE LA	136	165	194	224	253
PARISH WASHINGTON STATE LA	136	165	194	224	253
PARISH NATCHITOCHES STATE LA	129	157	185	213	241
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
NON SMSA					
COUNTY BEAVER STATE OK	137	167	196	226	255
COUNTY BECKHAM STATE OK	137	167	196	226	255
COUNTY CARTER STATE OK	123	149	176	202	229
COUNTY CIMARRON STATE OK	137	167	196	226	255
COUNTY CUSTER STATE OK	137	167	196	226	255
COUNTY GARFIELD STATE OK	137	167	196	226	255
COUNTY GARVIN STATE OK	123	149	176	202	229
COUNTY GRADY STATE OK	123	149	176	202	229
COUNTY JOHNSTON STATE OK	113	137	161	185	210
COUNTY KAY STATE OK	131	159	187	215	243
COUNTY LOVE STATE OK	113	137	161	185	210
COUNTY MURRAY STATE OK	113	137	161	185	210

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OKLAHOMA CITY, OKLAHOMA AREA OFFICE					
NON SMSA					
COUNTY:PAYNE STATE:OK	156	190	224	257	291
COUNTY:PONTOTOC STATE:OK	123	149	176	202	229
COUNTY:SEMINOLE STATE:OK	123	149	176	202	229
COUNTY:TEXAS STATE:OK	137	167	196	226	255
COUNTY:WOODWARD STATE:OK	137	167	196	226	255
SMSA: FORT SMITH, AR-OK					
COUNTY:LE FLORE STATE:OK	131	159	187	215	243
COUNTY:SEQUOYAH STATE:OK	131	159	187	215	243
NON SMSA					
COUNTY:ATOKA STATE:OK	113	137	161	185	210
COUNTY:COAL STATE:OK	113	137	161	185	210
COUNTY:HASKELL STATE:OK	123	149	176	202	229
COUNTY:HUGHES STATE:OK	113	137	161	185	210
COUNTY:LATIMER STATE:OK	123	149	176	202	229
COUNTY:MCCURTAIN STATE:OK	123	149	176	202	229
COUNTY:MCINTOSH STATE:OK	131	159	187	215	243
COUNTY:NOWATA STATE:OK	131	159	187	215	243
COUNTY:OKMULGEE STATE:OK	131	159	187	215	243
COUNTY:PAWNEE STATE:OK	131	159	187	215	243
COUNTY:PITTSBURG STATE:OK	123	149	176	202	229
COUNTY:PUSHMATAHA STATE:OK	123	149	176	202	229
COUNTY:WASHINGTON STATE:OK	137	167	196	226	255

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 6	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN ANTONIO, TEXAS AREA OFFICE					
SMSA: BROWNSVILLE-HARLINGEN-SAN BENITO, TX					
COUNTY: CAMERON STATE: TX	168	204	240	276	312
SMSA: MC ALLEN-PHARR-EDINBURG, TX					
COUNTY: HIDALGO STATE: TX	168	204	240	276	312
NON SMSA					
COUNTY: VICTORIA STATE: TX	175	212	250	287	325
REGION 7					
KANSAS CITY, MISSOURI AREA OFFICE					
SMSA: SPRINGFIELD, MO.					
COUNTY: CHRISTIAN STATE: MO.	135	160	190	220	250
COUNTY: GREENE STATE: MO.	135	160	190	220	250
NON SMSA					
COUNTY: JASPER STATE: MO	120	137	165	185	205
COUNTY: JOHNSON STATE: MO	139	161	198	216	240
COUNTY: NEWTON STATE: MO	120	137	165	185	205
COUNTY: NODAWAY STATE: MO	139	161	198	216	240
SMSA: LAWRENCE, KS					
COUNTY: DOUGLAS STATE: KS	183	214	256	298	324
SMSA: WICHITA, KS					
COUNTY: BUTLER STATE: KS	170	199	231	272	300
COUNTY: SEDGWICK STATE: KS	170	199	231	272	300
NON SMSA					
COUNTY: HARVEY STATE: KS	125	150	175	210	220
COUNTY: RILEY STATE: KS	150	185	215	250	280

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR: 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OMAHA, NEBRASKA AREA OFFICE					
SMSA: DUBUQUE, IA					
COUNTY DUBUQUE					
STATE IA	153	200	261	311	340
SMSA: SIOUX CITY, IA-NE					
COUNTY:WOODBURY					
STATE:IA	**140**	**165**	**200**	**225**	**250**
NON SMSA					
COUNTY ADAMS					
STATE IA	142	173	204	234	265
COUNTY AUDUBON					
STATE IA	136	150	187	224	253
COUNTY CARROLL					
STATE IA	136	150	187	224	253
COUNTY CRAWFORD					
STATE IA	136	150	187	224	253
COUNTY GREENE					
STATE IA	136	150	187	224	253
COUNTY GUTHRIE					
STATE IA	136	150	187	224	253
COUNTY MARSHALL					
STATE IA	125	172	203	235	260
COUNTY SAC					
STATE IA	136	150	187	224	253
COUNTY STORY					
STATE IA	155	179	216	242	260
COUNTY TAYLOR					
STATE IA	142	173	204	234	265
OMAHA, NEBRASKA AREA OFFICE					
SMSA: LINCOLN, NE					
COUNTY LANCASTER					
STATE NE	182	221	260	299	338
SMSA: SIOUX CITY, IA-NE					
COUNTY:DAKOTA					
STATE:NE	**140**	**165**	**200**	**225**	**250**
NON SMSA					
COUNTY ADAMS					
STATE NE	129	175	227	286	315
COUNTY BOX BUTTE					
STATE NE	156	189	222	256	289
COUNTY GAGE					
STATE NE	160	194	228	262	296

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 7	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ST. LOUIS, MISSOURI AREA OFFICE					
NON SMSA					
COUNTY: CAPE GIRARDE STATE: MO	140	170	200	230	260
COUNTY: SCOTT STATE: MO	140	170	200	230	260
REGION 8					
DENVER, COLORADO REGIONAL: AREA OFFICE					
NON SMSA					
COUNTY: LARAMIE STATE: WY	185	218	256	294	333
COUNTY: NATRONA STATE: WY	195	236	278	320	361
SMSA: DENVER-BOULDER , CO					
COUNTY: ADAMS STATE: CO	209	253	298	343	387
COUNTY: ARAPAHOE STATE: CO	209	253	298	343	387
COUNTY: BOULDER STATE: CO	209	253	298	343	387
COUNTY: DENVER STATE: CO	209	253	298	343	387
COUNTY: DOUGLAS STATE: CO	209	253	298	343	387
COUNTY: GILPIN STATE: CO	209	253	298	343	387
COUNTY: JEFFERSON STATE: CO	209	253	298	343	387
NON SMSA					
COUNTY: MESA STATE: CO	197	240	282	324	367
SMSA: BISMARCK, N.D.					
COUNTY: BURLEIGH STATE: ND	180	210	250	290	315

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO). AUGUST 24, 1979

U S DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION B	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
SMSA: BISMARCK, N.D.					
COUNTY MORTON	160	210	250	290	315
STATE ND					
SMSA: FARGO-MOORHEAD, ND-MN					
COUNTY:CASS	175	200	260	300	320
STATE:ND					
SMSA: GRAND FORKS, N.D.-MN					
COUNTY GRAND FORKS	175	210	250	290	315
STATE ND					
NON SMSA					
COUNTY ADAMS	140	165	210	235	255
STATE ND					
COUNTY BARNES	140	165	210	235	255
STATE ND					
COUNTY BENSON	140	165	210	235	255
STATE ND					
COUNTY BILLINGS	140	165	210	235	255
STATE ND					
COUNTY BOTTINEAU	140	165	210	235	255
STATE ND					
COUNTY BOWMAN	140	165	210	235	255
STATE ND					
COUNTY BURKE	140	165	210	235	255
STATE ND					
COUNTY CAVALIER	140	165	210	235	255
STATE ND					
COUNTY DICKEY	140	165	210	235	255
STATE ND					
COUNTY DIVIDE	140	165	210	235	255
STATE ND					
COUNTY DUNN	140	165	210	235	255
STATE ND					
COUNTY EDDY	140	165	210	235	255
STATE ND					
COUNTY EMMONS	140	165	210	235	255
STATE ND					
COUNTY FOSTER	140	165	210	235	255
STATE ND					
COUNTY GOLDEN VALLY	140	165	210	235	255
STATE ND					
COUNTY GRANT	140	165	210	235	255
STATE ND					
COUNTY GRIGGS	140	165	210	235	255
STATE ND					
COUNTY HETTINGER	140	165	210	235	255
STATE ND					
COUNTY KIDDER	140	165	210	235	255
STATE ND					
COUNTY LA MOORE	140	165	210	235	255
STATE ND					
COUNTY LOGAN	140	165	210	235	255
STATE ND					
COUNTY MCHENRY	140	165	210	235	255
STATE ND					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY: MCINTOSH STATE: ND	140	165	210	235	255
COUNTY: MCKENZIE STATE: ND	140	165	210	235	255
COUNTY: MCLEAN STATE: ND	155	175	225	245	270
COUNTY: MERCER STATE: ND	155	175	225	245	270
COUNTY: MOUNTRAIL STATE: ND	140	165	210	235	255
COUNTY: NELSON STATE: ND	140	165	210	235	255
COUNTY: OLIVER STATE: ND	155	175	225	245	270
COUNTY: PEMBINA STATE: ND	140	165	210	235	255
COUNTY: PIERCE STATE: ND	140	165	210	235	255
COUNTY: RAMSEY STATE: ND	140	165	210	235	255
COUNTY: RANSOM STATE: ND	140	165	210	235	255
COUNTY: RENVILLE STATE: ND	140	165	210	235	255
COUNTY: RICHLAND STATE: ND	140	165	210	235	255
COUNTY: ROLETTE STATE: ND	140	165	210	235	255
COUNTY: SARGENT STATE: ND	140	165	210	235	255
COUNTY: SHERIDAN STATE: ND	140	165	210	235	255
COUNTY: SIOUX STATE: ND	140	165	210	235	255
COUNTY: SLOPE STATE: ND	140	165	210	235	255
COUNTY: STARK STATE: ND	155	175	225	245	270
COUNTY: STEELE STATE: ND	140	165	210	235	255
COUNTY: STUTSMAN STATE: ND	140	165	210	235	255
COUNTY: TOWNER STATE: ND	140	165	210	235	255
COUNTY: TRAILL STATE: ND	140	165	210	235	255
COUNTY: WALSH STATE: ND	140	165	210	235	255

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 8	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DENVER, COLORADO REGIONAL AREA OFFICE					
NON SMSA					
COUNTY: WARD STATE: ND	150	175	225	285	315
COUNTY: WELLS STATE: ND	140	165	210	235	255
COUNTY: WILLIAMS STATE: ND	140	165	210	235	255
COUNTY: FLATHEAD STATE: MT	162	196	231	266	300
COUNTY: GALLATIN STATE: MT	191	232	273	314	355
COUNTY: LEWIS+ CLARK STATE: MT	208	252	297	342	386
COUNTY: MISSOULA STATE: MT	170	207	243	279	316
COUNTY: PARK STATE: MT	184	224	263	302	342
COUNTY: RICHLAND STATE: MT	165	200	236	271	306
COUNTY: CARBON STATE: UT	182	221	260	299	338
COUNTY: EMERY STATE: UT	168	204	240	276	312
COUNTY: BROWN STATE: SD	153	186	219	252	285
NON SMSA					
COUNTY: BUTTE STATE: SD	151	184	216	248	281
COUNTY: CLAY STATE: SD	160	194	228	262	297
COUNTY: CUSTER STATE: SD	162	196	231	266	300
COUNTY: FALL RIVER STATE: SD	162	196	231	266	300
COUNTY: GRANT STATE: SD	159	194	228	262	296
COUNTY: HUGHES STATE: SD	181	220	259	298	337
COUNTY: LAWRENCE STATE: SD	140	170	200	230	260
COUNTY: STANLEY STATE: SD	181	220	259	298	337
COUNTY: WALWORTH STATE: SD	148	179	211	243	274

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HONOLULU, HAWAII AREA OFFICE					
SMSA: HONOLULU, HI					
COUNTY:HONOLULU	275	311	394	464	517
STATE:HI					
LOS ANGELES, CALIFORNIA AREA OFFICE					
SMSA: BAKERSFIELD, CA					
COUNTY:KERN	176	220	248	330	385
STATE:CA					
SMSA: LOS ANGELES-LONG BEACH, CA					
COUNTY:LOS ANGELES	215	260	306	380	453
STATE:CA					
SMSA: SANTA BARBARA-SANTA MARIA-LOMPOC, CA					
COUNTY:SANTA BARBAR	212	258	333	384	433
STATE:CA					
NON SMSA					
COUNTY:SAN LUIS OBI	198	239	301	344	389
STATE:CA					
SMSA: SAN DIEGO, CA					
COUNTY:SAN DIEGO	216	262	308	354	400
STATE:CA					
NON SMSA					
COUNTY:IMPERIAL	151	202	216	249	281
STATE:CA					
SMSA: ANAHEIM-SANTA ANA-GARDEN GROVE, CA					
COUNTY:ORANGE	230	274	322	440	500
STATE:CA					
SMSA: RIVERSIDE-SAN BERNARDINO-ONTARIO, CA					
COUNTY:RIVERSIDE	204	241	283	360	420
STATE:CA					
COUNTY:SAN BERNADIN	204	241	283	360	420
STATE:CA					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN FRANCISCO, CALIFORNIA AREA OFFICE					
SMSA: FRESNO, CA					
COUNTY:FRESNO	170	207	244	320	350
STATE:CA					
SMSA: MODESTO, CA					
COUNTY:STANISLAUS	185	205	250	340	370
STATE:CA					
NON SMSA					
COUNTY:MERCED	162	181	253	325	379
STATE:CA					
COUNTY:TULARE	178	202	260	342	379
STATE:CA					
SMSA: RENO, NV					
COUNTY:WASHOE	250	300	365	440	475
STATE:NV					
NON SMSA					
COUNTY:ESMERALDA	190	230	280	330	365
STATE:NV					
COUNTY:EUREKA	190	230	280	330	365
STATE:NV					
COUNTY:NYE	190	230	280	330	365
STATE:NV					
COUNTY:WHITE PINE	190	230	280	330	365
STATE:NV					
SMSA: STOCKTON, CA					
COUNTY:SAN JOAQUIN	172	208	245	310	345
STATE:CA					
NON SMSA					
COUNTY:PLUMAS	180	210	260	320	395
STATE:CA					
COUNTY:SHASTA	160	205	250	310	375
STATE:CA					
COUNTY:SUTTER	168	204	240	310	375
STATE:CA					
SMSA: SALINAS-SEASIDE-MONTEREY, CA					
COUNTY:MONTEREY	199	240	282	400	435
STATE:CA					
SMSA: SAN FRANCISCO-OAKLAND, CA					
COUNTY:ALAMEDA	217	264	310	430	470
STATE:CA					
COUNTY:CONTRA COSTA	217	264	310	430	470
STATE:CA					
COUNTY:MARIN	217	264	310	430	470
STATE:CA					
COUNTY:SAN FRANCISC	217	264	310	430	470
STATE:CA					
COUNTY:SAN MATEO	217	264	310	430	470
STATE:CA					
SMSA: SAN JOSE, CA					
COUNTY:SANTA CLARA	238	289	340	430	470
STATE:CA					
SMSA: SANTA CRUZ, CA					
COUNTY:SANTA CRUZ	183	220	280	391	450
STATE:CA					
SMSA: SANTA ROSA, CA					
COUNTY:SONOMA	190	220	294	380	430
STATE:CA					

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 9	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN FRANCISCO, CALIFORNIA AREA OFFICE					
SMSA: VALLEJO-FAIRFIELD-NAPA, CA					
COUNTY NAPA STATE CA	188	229	269	380	420
COUNTY SOLANO STATE CA	188	229	269	380	420
NON SMSA					
COUNTY HUMBOLDT STATE CA	185	220	260	340	375
COUNTY MENDOCINO STATE CA	180	230	285	360	400
COUNTY LINCOLN STATE NV	190	230	280	330	365
REGION 10					
PORTLAND, OREGON AREA OFFICE					
SMSA: BOISE CITY, ID					
COUNTY ADA STATE ID	181	205	257	282	310
NON SMSA					
COUNTY BENLWAH STATE ID	162	196	231	266	300
COUNTY BONNER STATE ID	162	196	231	266	300
COUNTY BOUNDARY STATE ID	162	196	231	266	300
COUNTY CLEARWATER STATE ID	162	196	231	266	300
COUNTY IDAHO STATE ID	162	196	231	266	300
COUNTY KOOTENAI STATE ID	162	196	231	266	300
COUNTY LATAH STATE ID	171	196	232	242	273
COUNTY LEWIS STATE ID	162	196	231	266	300
COUNTY NEZ PERCE STATE ID	171	196	232	242	273
COUNTY SHOSHONE STATE ID	162	196	231	266	300
SMSA: EUGENE-SPRINGFIELD, OR					
COUNTY LANE STATE OR	174	197	236	300	356

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION ID	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PORTLAND, OREGON AREA OFFICE					
SMSA: PORTLAND, OR-WA					
COUNTY CLARK STATE WA	174	209	246	323	351
COUNTY CLACKAMAS STATE OR	174	209	246	323	351
COUNTY MULTNOMAH STATE OR	174	209	246	323	351
COUNTY WASHINGTON STATE OR	174	209	246	323	351
NON SMSA					
COUNTY CLATSOP STATE OR	172	198	233	267	303
COUNTY COLUMBIA STATE OR	172	198	233	267	303
COUNTY COOS STATE OR	159	205	262	294	319
COUNTY CROOK STATE OR	163	198	233	267	303
COUNTY CURRY STATE OR	174	209	242	323	351
COUNTY DESCHUTES STATE OR	163	198	233	267	303
COUNTY JEFFERSON STATE OR	163	198	233	267	303
COUNTY JOSEPHINE STATE OR	172	195	232	264	300
NON SMSA					
COUNTY TILLAMOOK STATE OR	172	198	233	267	303
COUNTY YAMHILL STATE OR	160	200	250	302	367

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS: 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SECTION 8 & 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS

SCHEDULE B- FAIR MARKET RENTS FOR EXISTING HOUSING(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

REGION 10	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SEATTLE, WASHINGTON AREA OFFICE					
SMSA: SEATTLE-EVERETT, WA					
COUNTY:KING STATE:WA	193	234	275	344	374
COUNTY:SNOHOMISH STATE:WA	193	234	275	344	374
SMSA: TACOMA, WA					
COUNTY:PIERCE STATE:WA	174	202	250	323	354
NON SMSA					
COUNTY:CHELAN STATE:WA	165	217	274	348	394
COUNTY:COWLITZ STATE:WA	168	222	250	343	370
COUNTY:DOUGLAS STATE:WA	165	217	274	348	394
COUNTY:KITSAP STATE:WA	185	220	265	371	440
COUNTY:WHATCOM STATE:WA	175	199	240	345	386
SMSA: RICHLAND-KENNEWICK-PASCO, WA					
COUNTY:BENTON STATE:WA	181	221	269	345	389
COUNTY:FRANKLIN STATE:WA	181	221	269	345	389
SMSA: SPOKANE, WA					
COUNTY:SPOKANE STATE:WA	183	211	262	320	370
NON SMSA					
COUNTY:ASOTIN STATE:WA	157	185	264	317	350
COUNTY:FERRY STATE:WA	127	174	214	254	293
COUNTY:PEND OREILLE STATE:WA	127	174	214	254	293
COUNTY:STEVENS STATE:WA	145	200	245	290	335
COUNTY:WALLA WALLA STATE:WA	145	200	280	355	380
COUNTY:WHITMAN STATE:WA	160	200	255	370	430

NOTE: FAIR MARKET RENTS (FMR) SHALL BE CALCULATED FOR FIVE AND SIX BEDROOM UNITS AS FOLLOWS; 5-BR = 145 PERCENT OF 2-BR FMR; 6-BR = 165 PERCENT OF 2-BR FMR. LIKEWISE, THE FAIR MARKET RENTS FOR UNIT SIZES LARGER THAN SIX BEDROOMS SHALL BE CALCULATED BY ADDING 20 PERCENTAGE POINTS TO THE PERCENTAGE USED FOR THE NEXT LOWER NUMBER OF BEDROOMS.

PREPARED BY HUD - EMAD (CO), AUGUST 24, 1979

[FR Doc. 79-31607 Filed 10-11-79; 8:45 am]
BILLING CODE 4210-01-C

federal register

Friday
October 12, 1979

Part VIII

Department of Health, Education, and Welfare

Office of Education

Financial Assistance to Local Educational Agencies to Meet the Special Educational Needs of Educationally Deprived and Neglected and Delinquent Children—Evaluation Requirements

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Parts 116 and 116a

Financial Assistance to Local Educational Agencies To Meet the Special Educational Needs of Educationally Deprived and Neglected and Delinquent Children—Evaluation Requirements

AGENCY: Office of Education, HEW.

ACTION: Final Regulations.

SUMMARY: These final regulations govern the evaluation of programs and projects authorized by title I of the Elementary and Secondary Education Act of 1965. The regulations are required by the Education Amendments of 1974 and 1978. For projects conducted by local educational agencies (LEAs), the regulations provide evaluation standards and amend existing requirements governing frequency of evaluation. These regulations also specify models for evaluating the effectiveness of LEA projects providing instructional services in reading, language arts, or mathematics. Other title I requirements resulting from the Education Amendments of 1978 were published as a Notice of Proposed Rulemaking on June 29, 1979 (44 FR 38400).

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to the Congress. They are transmitted to the Congress several days before they are published in the **Federal Register**. The effective date is changed by statute if Congress disapproves the regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Judith Burnes, Office of Evaluation and Dissemination, U.S. Office of Education, Room 3040, FOB 6, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: 202—245–8364.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking published in the **Federal Register** on February 7, 1979 (44 FR 7914) proposed to amend parts 116 and 116(a) of 45 CFR to implement certain evaluation requirements resulting from the Education Amendments of 1974 and 1978. The regulations specify models and standards for the evaluation of projects conducted by LEAs.

Several changes in the final regulations resulted from comments received in response to the proposed rules. These include a change in the deadline for the State evaluation report, the inclusion in the biennial report of data from projects conducted since the last report, the elimination of a requirement for sending two local reports to the Office of Education, the reduction of reported project data to cover a sample of grades, and the use of title I funds for required long-term evaluations. Other issues raised by the commenters included the appropriate requirements for long-term evaluations, whether "language arts" programs include programs to teach English to non-English speaking children, and how data resulting from the models will be used at the local, State, and national levels.

The required evaluation models represent an improvement over the practices and procedures of many locally conducted title I evaluations. Technical questions remain, however, concerning such issues as the extent to which the different models yield comparable data. These issues are currently under investigation by the Office of Education. As further technical analysis leads to refinements in either the models or the process for reporting evaluation results, revisions in the regulations may be needed. The Commissioner intends to reconsider, and if necessary, revise the regulations after a three-year period, based on information available at that time. Representatives of State educational agencies (SEAs) and LEAs will be invited to participate in this review.

Evaluation activities in title I have several purposes. They include an assessment of the effectiveness of title I services and, for the purpose of revision and improvement, the identification of strengths and weaknesses of individual projects. Although the required models are concerned with only the most common title I objectives—achievement gains in reading, language arts, and mathematics—SEAs and LEAs are encouraged to evaluate all of their project objectives and to collect whatever data are needed for local decision making.

Section 187 requires the Commissioner to publish a title I policy manual. The manual will provide policy guidance concerning the evaluation requirements. A draft of the evaluation section of the policy manual is currently available and may be obtained by writing to the address at the beginning of this document. Detailed procedures for implementing each of the models are contained in a User's Guide, also available from that address.

In addition, a technical assistance center has been established in each HEW region to assist SEAs and LEAs with title I evaluation matters.

During March of 1979 the Commissioner held public meetings on the proposed regulations in Boston, Mass.; Atlanta, Georgia; Kansas City, Missouri; and San Francisco, California. Interested parties were also given 45 days to make written comments on the proposed regulations. The Appendix summarizes the comments received and the Commissioner's responses to them.

Citation of Legal Authority

The reader will find a citation of statutory or other legal authority in parentheses on the line following each substantive provision.

(Catalog of Federal Domestic Assistance Number 13.428, Educationally Deprived Children—Local Educational Agencies)

Dated: August 1, 1979.

Mary F. Berry,

Acting U.S. Commissioner of Education.

Approved: October 5, 1979.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

The Commissioner amends Parts 116 and 116a of 45 CFR to read as follows:

PART 116—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES AND STATE AGENCIES TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED, HANDICAPPED, MIGRANT, AND NEGLECTED AND DELINQUENT CHILDREN—GENERAL PROVISIONS

Subpart B—Duties and Functions of State Educational Agencies

1. Section 116.7 is amended by revising paragraph (a) as follows:

§ 116.7 Reports by State educational agencies.

(a) *Evaluation reports.* The SEA shall submit to the Commissioner a report evaluating the effectiveness of title I programs and projects in meeting the special educational needs of participating children. This report must contain information about programs and projects conducted since the last report.

(1) For programs and projects authorized by part B, subparts 1, 2, and 3 (State programs for migratory children, for handicapped children, and for neglected or delinquent children), this report is due on February 1 of each year.

(2) For programs and projects authorized by part A, subpart 1 (basic grants to local educational agencies), this report is due on February 1, 1981

and February 1 of every second year thereafter.

(Section 172 of the Elementary and Secondary Education Act as amended by the Education Amendments of 1978)

* * * * *

PART 116a—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED AND NEGLECTED AND DELINQUENT CHILDREN

2. Section 116a is amended by adding Subpart F to read as follows:

Subpart F—Evaluation

Authority: Title I of the Elementary and Secondary Education Act as amended by Pub. L. 95–561, unless otherwise noted.

* * * * *

Subpart F—Evaluation

§ 116a.50 Technical standards.

A local educational agency (LEA) shall explain in its application how its evaluation plan (required by § 116a.22(b)(3)) is consistent with the following technical standards. The State educational agency (SEA) shall use these same standards in determining the adequacy of the LEA's plan.

(a) *Representativeness of evaluation findings.* The evaluation results are computed so that the conclusions apply to the persons or schools served by the title I project. This may be accomplished by including in the evaluation either all or a representative sample of the persons or schools served by the project.

(b) *Reliability and validity of evaluation instruments and procedures.* The proposed evaluation instruments—

(1) Consistently and accurately measure the objectives of the project; and

(2) Are appropriate, considering factors such as the age or background of the persons served by the project.

(c) *Evaluation procedures that minimize error.* The proposed evaluation procedures minimize error by including—

(1) Proper administration of the evaluation instruments;

(2) Accurate scoring and transcription of data; and

(3) Use of analysis procedures whose assumptions are appropriate for the data.

(d) *Valid assessment of achievement gains in reading, language arts, and mathematics.* In assessing the effectiveness of regular school year title I reading, language arts, and mathematics projects in grades 2 through 12, the proposed evaluation procedures yield a valid measure of (1) the title I children's performance after receiving title I services compared to (2) an estimate of what their performance would have been in the absence of title I services. As used in this subpart, a language arts project does not include a project designed to teach English to non-English-speaking children.

(Section 183 of the Elementary and Secondary Education Act as amended by the Education Amendments of 1978)

§ 116a.51 Local educational agency models: general.

(a)(1) An LEA shall use one of the models in section 116a.52—or an approved alternative—in the evaluation of each regular school year title I project that provides instructional services in reading, language arts, or mathematics, in grades 2 through 12.

(2) The models require that the LEA administer a test (i) before or at the beginning of services for the project period (pretest) and (ii) after or at the end of the project period (post-test). Examples or appropriate pre- and post-test periods include fall-to-fall testing, fall-to-spring testing, and spring-to-spring testing.

(b)(1) The models compare the post-test scores of title I children to an estimate of what their post-test scores would be if they had not received title I services ("expected performance").

(2) Each model provides a different method for estimating expected performance using the scores of children not receiving title I services who are tested at the same time of year.

(c) With any of the three models, the LEA may use a test with or without national norms.

(Section 183 of the Elementary and Secondary Education Act as amended by the Education Amendments of 1978)

§ 116a.52 Requirements of the models.

(a) *Norm-Referenced model.* An LEA using the Norm-Referenced model shall—

(1) Administer a pre- and post-test to title I children; and

(2) Estimate expected performance using the performance of children in a norm sample developed (i) locally, (ii) by the SEA, or (iii) by a test publisher.

(b) *Comparison Group model.* An LEA using the Comparison Group model shall—

(1) Identify a comparison group of educationally disadvantaged children who—

(i) Are similar to title I children with respect to eduationally relevant factors (such as age, socio-economic status, and previous achievement); and

(ii) Are not receiving title I or similar compensatory education services;

(2) Administer a pre- and post-test to both the title I children and the children in the comparison group; and

(3) Estimate expected performance for the title I children by using the test scores of the children in the comparison group.

(c) *Regression model.* An LEA using the Regression model shall—

(1) Administer a pretest to a group of children in title I eligible schools at grade levels to be served by title I. In the Regression model only, the pretest may consist of a test, teacher judgment of student performance, or a composite of these;

(2) Establish a cutoff score and provide title I services to those children scoring below the cutoff. Children scoring above the cutoff are the comparison group for the evaluation; and

(3) Administer a post-test to both groups and estimate expected performance using the pre- and post-test scores for the comparison group.

(Section 183 of the Elementary and Secondary Education Act as amended by the Education Amendments of 1978)

§ 116a.53 Alternative models.

(a) An LEA may use an alternative to one of the three models in § 116a.52 for the evaluation of regular school year reading, language arts, or mathematics projects in grades 2 through 12. An alternative model would provide a method for estimating expected performance that differs from methods provided by the three models.

(b) The use of an alternative model must be approved first by the SEA and then by the Commissioner.

(c) To be approved, an alternative model must yield a valid measure of—

(1) The title I children's performance in reading, language arts, or mathematics;

(2) Their expected performance; and

(3) The results of the title I project expressed in the common reporting scale established by the Commissioner for SEA reporting (see §116a.56(c)(1)).

(d) The request for using an alternative model may be submitted to the Commissioner by the LEA or the

SEA acting at the request of one or more LEAs.

(e) The request must indicate how the alternative model meets the three requirements of paragraph (c).

(f) The Commissioner responds to the request in writing within 30 days.

(Section 183 of the Elementary and Secondary Education Act as amended by the Education Amendments of 1978)

§ 116a.54 Frequency of local educational agency evaluations.

(a)(1) An LEA shall evaluate the effectiveness of its title I projects at least once every three years in accordance with a schedule established by the Commissioner.

(2) This evaluation must include an assessment of achievement gains of title I children compared to an estimate of their expected performance in the absence of title I services.

(3) The LEA shall measure the achievement gains over a period of approximately either nine or twelve months. (Examples of appropriate testing intervals include fall-to-fall testing, fall-to-spring testing, and spring-to-spring testing.)

(b) At least once during the three-year period, the LEA shall collect additional information needed to determine whether the achievement gains measured over nine or twelve months are sustained over a longer period of time. (Examples of appropriate testing cycles for this long-term evaluation include fall-spring-fall testing, fall-fall-fall testing, and spring-spring-spring testing.

(Section 124 of the Elementary and Secondary Education Act as amended by the Education Amendments of 1978)

§ 116a.55 Local educational agency reporting.

(a)(1) An LEA shall report to the SEA the results of its evaluations conducted in accordance with the schedule established by the Commissioner.

(2)(i) In reporting the results of measurements of educational achievement in regular school year projects in reading, language arts, or mathematics in grades 2 through 12, the LEA shall use the common reporting scale estalished by the Commissioner unless the SEA approves some other form of local reporting.

(ii) If the SEA approves another form of reporting, the LEA shall include sufficient information to enable the SEA to convert the achievement results to the common scale.

(b) Unless requested by the SEA, the LEA is not required to include in its evaluation report the results of the long-term evaluations required by § 116a.54(b).

(c)(1) The LEA shall retain all of the data used to develop its report to the SEA for a period of five years from the date of the report or until any pending Federal audit has been resolved.

(2) The data to be retained must include—

(i) A record of all individual scores, with an identifying code so that pre- and post-test scores can be matched, in regular school year projects in language arts, or mathematics in grades 2 through 12; and

(ii) The name, form, level, and date of publication of any tests administered.

(Section 183 of the Elementary and Secondary Education Act as amended by the Education Amendments of 1978)

§ 116a.56 State educational agency reporting.

(a) *Sampling plan.* An SEA shall submit, for the approval of the Commissioner, a proposed sampling plan designed to ensure that evaluations are conducted in a representative sample of its LEA's in any school year. The proposed plan shall be developed according to the schedule and criteria specified by the Commissioner.

(b) *Annual performance report.* To provide nationwide information about the recipients of title I services and the types of services delivered, the SEA shall provide, in its annual performance report the following information for all regular and summer projects for all, or a representative sample of, LEA's:

(1) The number of title I participants by type of services received;

(2) The number of participants, by grade, who attend public schools; and

(3) The number of participants, by grade, who attend nonpublic schools; and

(4) Other information requested by the Commissioner. (This may include, for example, information about Parent Advisory Councils and teacher training.)

(c) *Biennial evaluation report.* The SEA biennial evaluation report (required by § 116.7(a)) shall contain information about programs and projects conducted since the last report. To provide nationwide information about the effectiveness of regular school year projects offering instructional services in reading, language arts, or mathematics in grades 2 through 12, each SEA shall include the following information for all or a representative sample of LEAs:

(1) A statewide average, by grade level, of achievement gains resulting from title I participation, expressed in the common reporting scale established by the Commissioner.

(2) For a sample of grade levels, information by grade level relating levels of achievement gain to—

(i) The number of hours of project exposure;

(ii) The pupil-per-instructor ratio; and

(iii) Project enrollment.

(3) If applicable, the number of projects excluded because of erroneous or missing data and the reasons for their exclusion.

(d) The SEA shall retain all the data used to develop its report for a period of five years from the date of the report or until any pending Federal audit has been resolved.

(Sections 172 and 183 of the Elementary and Secondary Education Act as amended by the Education Amendments of 1978; 45 CFR 74.82)

§ 116a.57 Allowable costs.

(a) Title I funds may be used for evaluation activities to—

(1) Identify specific strengths and weaknesses of a project;

(2) Determine the results of a project; and

(3) Disseminate the results of title I evaluations.

(b) In addition to the requirements concerning the supplementary nature of title I funds (§ 116.40), other rules governing title I expenditures (§ 116a.22(b)(4)(ii) and (iii)), and Appendix C of 45 CFR 74, the following rules apply to the use of title I funds to support the purchase, administration, scoring, and analysis of evaluation instruments. Except for cases in which data meeting these needs are already available, title I funds may be used—

(1) To test title I participants for evaluation purposes;

(2) In the Comparison Group model, to test an appropriate number of educationally disadvantaged children who are at the same grade level(s) as title I participants, but who are not receiving title I services;

(3) In the Regression model, to test an appropriate number of children in title I eligible schools who are at the grade levels served by title I;

(4) In cases in which a test without national norms has been used for evaluation purposes, to administer to all, or a representative sample of title I participants, a test with national norms. This will permit the LEA or SEA to convert its evaluation results to the common scale; and

(5) To test an appropriate number of children no longer receiving title I services to determine whether achievement gains measured over nine or 12 months are sustained over a longer period of time (as required by § 116a.54(b)).

(c) Title I funds may not be used for—

(1) General districtwide or statewide testing programs;

(2) Establishing local or State norms; or

(3) Research and development activities, such as the development and field testing of new instruments.

(Section 183 of the Elementary and Secondary Education Act as amended by the Education Amendments of 1978)

Appendix

The following is a summary of comments received on the Notice of Proposed Rulemaking. Each comment is followed by a response that indicates any changes made or why no change was considered necessary. The comments are arranged in the order of the regulatory sections to which they now pertain.

§ 116.7 Reports by State educational agencies.

Comment. One commenter questioned the statutory basis for the SEA evaluation report.

Response. No change has been made. Section 172 of title I requires that "each [SEA] shall make to the Commissioner . . . periodic reports . . . evaluating the effectiveness of . . . [title I projects] . . . in improving the educational attainment of educationally deprived children. . . ."

Comment. One commenter favored, and five opposed, the change from an annual to a biennial SEA evaluation report. Three commenters questioned whether a biennial report contradicts section 188(4) of title I, which refers to an annual evaluation report. Two commenters questioned whether a biennial SEA report would meet the needs of Congress.

Response. No change has been made. The title I statute does not clearly indicate the frequency with which SEAs are required to make evaluation reports. For example, section 172—which is concerned with SEA evaluation reporting—requires "periodic" reports to the Commissioner. Section 188 of the Act—which addresses the responsibilities of the Commissioner, not the SEAs—does refer to an "annual evaluation report."

On the other hand, section 182 provides that the Commissioner may approve a State application only if the State has complied with Section 435 of the General Education Provisions Act. Section 435 requires a State to assure the Commissioner that it will evaluate the effectiveness of its title I program "at such intervals . . . as the Commissioner may prescribe by regulation" and then report those evaluation results.

The biennial reporting of evaluation data to the Commissioner is sufficient to allow preparation of the biennial report to Congress required by section 183(g). In addition, the Commissioner believes the requirement of a biennial SEA report to be consistent with the manifest desire of Congress to reduce the amount of paperwork imposed on grantees.

Comment. One commenter objected to the apparent contradiction between the requirement that SEAs collect evaluation data annually from a sample of LEAs but report that data biennially to the Commissioner.

Response. No change has been made. The SEA evaluation report for projects conducted under part A, subpart 1 of the Act is required biennially in order to provide the Commissioner with information needed to prepare the biennial report to Congress mandated by section 183(g). On the other hand, section 183(b) of the Act requires that evaluations be conducted annually in a representative sample of LEAs in State.

Comment. One commenter asked whether the SEA biennial evaluation report must include information from both—or merely one—of the preceding years.

Response. A change has been made. To ensure that sufficient information is available for the Commissioner's report to Congress, both § 116.7 and 116a.56(c) have been changed to clarify that the SEA biennial report includes information from projects conducted since the last report.

Thus, for projects conducted under part A, subpart 1, the SEA report will include evaluation information from the two preceding school years. This will enable the Commissioner to examine the representativeness of data obtained in any given year and to study trends in title I effectiveness over a period of several years. It will also allow information from every title I district to be represented in a report to Congress during the legislative cycle.

Comment. Four commenters said that the January 1 SEA reporting date is too early, especially for school districts and States using a fall-to-fall testing cycle. However, one commenter said that the current November deadline was satisfactory.

Response. A change has been made. Section 116.7(a) now provides that SEAs must submit their evaluation reports by February 1 instead of January 1. This will provide additional time for SEAs to prepare their reports and will also allow sufficient time for the Commissioner to prepare a report to Congress. Of course, an SEA can file its evaluation report prior to the deadline.

Comment. One commenter recommended that § 116.7(a) be amended to eliminate the requirement that each SEA include two LEA evaluation reports along with its own report. Another commenter noted that the LEAs with the five highest allocations in the State might not be in the State's sample for the year covered by the evaluation report.

Response. A change has been made. The requirement that an SEA include two LEA reports with its own report is deleted.

§ 116a.50 Technical standards.

Comment. Two commenters said that the technical standards could not be achieved and should be deleted. However, a third commenter said there was no excuse for an LEA not to achieve the standards, and a fourth said the standards were good.

Response. No change has been made. Section 183(b) of the Act requires the Commissioner to "publish standards for [the] evaluation of program or project effectivness. . . ." The four standards reflect the characteristics of a good evaluation. Although many factors may influence the extent to which the standards can be met in a particular situation, it is important that evaluations achieve, to the greatest extent possible, the goals implied by the standards.

Comment. Two commenters said that the language of the standards is too vague to enforce, while another suggested changes that would have made them even less precise. Four commenters raised specific questions about the standards. Two commenters suggested other wording changes.

Response. No change has been made. The Commissioner believes that the technical standards meet the requirements of section 183(b) of the Act and are sufficiently precise to provide the guidance needed. Of course, the appropriate application of the technical standards requires technical judgments by the evaluator, who will have to consider factors such as the availability of test instruments and the likely impact of high student attrition rates.

Additional information concerning the implementation of the standards is provided in the evaluation section of the policy manual. A monograph describing various optional sampling procedures will be available from the Office of Education (OE) soon. Staff members of the regional technical assistance centers are also available to advise SEAs and LEAs in implementing the standards.

Comment. Two commenters asked how the technical standards would be enforced and another asked specifically what the SEA's obligation was to enforce the standards. One commenter recommended that the SEA obtain from LEAs assurances that their evaluation plans address the standards, rather than explanations of how these plans address the standards.

Response. No change has been made. Section 116a.50 requires an LEA to explain in its application how its evaluation plan addresses the standards. This information is necessary for the SEA to judge the adequacy of the LEA's plan.

SEAs are required by sections 166 and 167 of the Act to monitor and provide technical assistance to LEAs on all aspects of the title I program, including evaluation. In addition, section 164 of the Act prohibits an SEA from approving an LEA application unless the project it describes—including the LEA's plan to evaluate that project—complies with the title I statute and regulations.

§ 116a.51 Local educational agency evaluation models.

Comment. Thirteen commenters expressed concern about technical aspects of the evaluation system, including whether the models will yield comparable data, whether it is possible to isolate the effects of title I participation from that of other programs, and whether the approach reflected in the models is appropriate for evaluating compensatory education programs. Three commenters said that the models were sensible and would help reduce errors in evaluation.

Response. No change has been made. Although the models represent a clear improvement over many current title I evaluation practices and procedures, technical questions remain that require further exploration and analysis. OE is continuing to study these issues and will review its findings with representatives of SEAs and LEAs as results become available.

Any necessary changes in the regulations will be made when new information is available.

Comment. Ten commenters supported the publication of regulations, but seven others suggested that regulations be delayed or that the use of the evaluation models be made optional until all technical problems are solved. Three commenters recommended that OE continue to study the models and revise the regulations as new information becomes available. Two other said that the regulations should contain an expiration date.

Response. No change has been made. These regulations are required by section 183 of the Act. The Commissioner intends to reconsider, and, if necessary, revise these regulations in three years based on information available from analyses currently being conducted. In the meantime, data resulting from the models will be reported to Congress, as required by section 183(g).

Comment. Two commenters said that OE has not identified the uses of the data collected. Eight others said that the data would not be useful to LEAs in planning their projects.

Response. At the Federal level, data resulting from the system will be used in three ways:

(1) To prepare reports mandated by law.

(2) To respond to questions from Congress and other interested parties.

(3) To aid decision making in OE.

OE will prepare two reports using data from the models, as well as from other evaluation studies. These reports include the biennial report to Congress required by section 183(g) of the Act, and a portion of the annual evaluation report to Congress required by Section 417 of the General Education Provisions Act.

From data based on the voluntary implementation of the models during the 1977–78 school year, OE will develop a report that will illustrate the ways in which data resulting from the models will be analyzed and reported to Congress. This report will be distributed to SEAs and LEAs.

The evaluation data will also be used by OE to respond to questions posed by members of Congress, State administrators, university personnel, scholars, and other interested educators.

At the State level, this evaluation data can be used for reporting purposes, for identifying exemplary projects and programs, and for reviewing and monitoring LEA activities. At the local level, the data can be used to assess project effectiveness and, in coordination with other information, can provide guidance for the planning of future projects.

Staff members of the regional technical assistance centers are available to assist State and local officials in planning their evaluation activities to be as useful as possible. During the next few years the centers will be placing an increasing emphasis on the use of evaluation information for program planning and improvement.

Comment. Five commenters said that the models represent merely a testing and reporting system and will not provide information needed to relate project results to specific instructional activities.

Response. No change has been made. These models and reporting requirements deal principally with only the most common title I objectives: achievement gains in reading, language arts, and mathematics. SEAs and LEAs are encouraged to design evaluation systems that, in addition to satisfying Federal requirements, include the collection of other information needed for effective local decision making.

Comment. One commenter asked whether an LEA can choose which model to adopt, or whether the SEA can prescribe one model for the entire State.

Response. No change has been made. Section 183(d) requires the Commissioner to "provide to State educational agencies, models for evaluations of all programs conducted under this title . . . ." Consistent with this provision and with the State rulemaking authority provided by section 165 of the Act, an SEA may, as a general matter, require its LEAs to use certain of the three models prescribed by the regulations or an approved alternative.

However, an SEA's authority to prescribe models for use by LEAs is limited by the need to comply with the technical standards. Each of the three models requires different implementation procedures, and each is more appropriate in some situations than others. In selecting an evaluation model for a particular title I project, an SEA or an LEA must consider the strengths and weaknesses of each model as it would apply to that particular project.

In resolving any dispute between an LEA and an SEA regarding the choice of an evaluation model, the Commissioner considers the extent to which any proposed model enables the LEA to best comply with the technical standards.

Comment. Two commenters questioned whether LEAs have the expertise to implement the requirements, and another asked whether an LEA must have an independent contractor.

Response. Staff members of the regional technical assistance centers are available to help SEAs and LEAs in selecting a model and implementing its requirements. An LEA is not required to have evaluations conducted by an independent contractor.

Comment. Eleven commenters recommended the development of models and evaluation procedures for other program areas and objectives, including early childhood education, education of the handicapped, and parental involvement programs, as well as student reactions to title I services.

Response. *No change has been made. The development of models and evaluation procedures is currently under way for title I programs in early childhood education, programs for migrants and the neglected or delinquent, and for parental involvement programs.*

Comment. Four commenters asked about topics outside the scope of the proposed regulations, such as the role of parents and how needs assessments are to be conducted.

Response. No change has been made. Issues such as how needs assessments are to be conducted and the role of parents are addressed in the title I statute and the Notice of Proposed Rulemaking of June 29, 1979, 44 FR 38400.

Comment. One commenter asked how LEAs can appeal an evaluation requirement imposed by an SEA.

Response. An LEA wishing to appeal an SEA action involving an evaluation requirement may appeal to the Commissioner under the procedures of Section 425 of the General Education Provisions Act.

§ 116a.52 Model requirements.

Comment. Three commenters questioned the suitability of national norms.

Response. No change has been made. The regulations provide that if national norms are inappropriate for a particular group of title I students, the LEA may use locally developed norms to determine expected performance.

Comment. One commenter said that the regulations concerning the Norm-Referenced model should require a separate test for selection and pretest of title I participants. Two other commenters opposed such a requirement.

Response. No change has been made. The regulations do not require a separate test for selection and pretest. However, when the same test scores are used for both purposes, an error—known as the regression effect error—may occur. OE is currently investigating the feasibility of various statistical corrections for this error.

Comment. Three commenters expressed concerns about the Comparison Group model. Two of the three questioned the availability of an appropriate comparison group. The other asked whether, if the LEA uses a half-year project, the number of hours of project participation must be doubled in order to ensure sufficient project exposure.

Response. No change has been made. In many instances, it may be difficult for LEAs to locate a suitable comparison group. One situation in which the Comparison Group model may be feasible is in large, homogeneous districts where schools not eligible to participate in title I are similar to those that are. Another situation might be one in which a project lasts half a year or less. In this case, children assigned to the second session could serve as a comparison group for those receiving title I services in the first session.

Like all title I projects, those lasting a half year or less must satisfy section 124(d) of the Act, which requires that they be of "sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served." However, neither the title I statute nor the regulations establish a minimum number of hours of project exposure.

Comment. Four commenters recommended that the regulations permit the use of composite scores for student selection in connection with the Regression model. Such scores might reflect, for example, teacher evaluations of student performance.

Response. A change has been made. The use of composite scores for student selection in the Regression model is technically appropriate. Therefore, § 116a.52(c)(1) has been amended to clarify that composite scores are permitted.

Comment. Three commenters expressed general concerns about the Regression model,

and one could not understand how the scores of higher-achieving children could be used to estimate the expected growth of lower-achieving children.

Response. No change has been made. In the Regression model, the scores of high- and low-achieving children are not compared directly. Rather, the pattern of pre- and post-test scores of the higher-achieving children is used to derive statistically an estimate of the expected performance for children receiving title I services. OE believes that the Regression model is technically sound, although it is not appropriate for all situations. Guidance concerning the appropriate use of the model is included in the evaluation section of the policy manual, as well as in the User's Guide.

Comment. Five commenters recommended that language arts projects be defined to exclude language programs whose purpose is to teach English to non-English-speaking children.

Response. A change has been made. As used in subpart F, language arts projects do not include projects designed to teach English to non-English-speaking children. Data resulting from the evaluation of these projects would not be comparable to data from other project evaluations.

Comment. Four commenters said the models discourage criterion-referenced—or other non-normed—tests by requiring that data be converted to the common reporting scale. However, one commenter considered the permissibility of these tests to be a positive feature of the models. One commenter expressed concern about the availability of tests that measure certain types of program objectives.

Response. No change has been made. With any of the models, the LEA may use either a normed or a non-normed test. LEAs are encouraged to select the test that most accurately measures the extent to which project objectives are achieved. If appropriate instruments are not commercially available, the LEA may use a locally-developed test designed to measure its project objectives. (Note, however, that § 116a.57(c) prohibits the use of title I funds for test development.) Whenever non-normed tests are used, the LEA must also obtain information needed to convert the resulting data to the common reporting scale (§ 116a.55(a)).

Comment. One commenter asked whether LEAs are required to use the models in a year when they are not required by the Commissioner's schedule to conduct an evaluation.

Response. No change has been made. The regulations require LEAs to use the evaluation models only for evaluations conducted according to the Commissioner's schedule (section 124(g)(1) of the Act).

Comment. One commenter said that fall testing should not be required.

Response. No change has been made. The testing cycle selected by the LEA will determine when tests are to be given. If an LEA is on a spring-to-spring cycle, for example, fall testing would not be required.

§ 116a.53 Alternative models.

Comment. Several commenters favored permitting the use of alternative models, although one recommended the publication of guidelines for their development. Three commenters said that alternative models should not be limited to those that yield results that can be expressed in the common reporting scale. Five commenters recommended State approval of alternative models.

Response. No change has been made. To ensure that data resulting from the models are comparable, as required by section 183(f) of the Act, alternative models must be approved by both the SEA and the Commissioner and must yield results that can be expressed in the common reporting scale (§ 116a.56(c)). Additional information concerning alternative models is provided in the evaluation section of the title I policy manual.

§ 116a.54 Frequency of local educational agency evaluations.

Comment. Twelve commenters recommended that LEA evaluations be required annually. Two others recommended that annual LEA evaluations be either encouraged or permitted. Three commenters recommended other evaluation cycles. On the other hand, one commenter approved of the three-year cycle, and another said that LEAs do not need to evaluate as often as once every three years.

Three commenters questioned whether the requirement of three-year evaluations is in accord with section 127(b) and other sections of the Act concerning the use of evaluation data for project improvement and approval.

Response. No change has been made. Section 121 of the Act permits LEAs to participate in title I on the basis of a three-year application. Section 124(g) of the Act requires LEAs to conduct evaluations according to the schedule established by the Commissioner, but not less frequently than every third year.

The Conference Report that accompanies the Education Amendments of 1978 clarifies that Congress intended, in the main, to require LEA evaluations no more often than once every third year (Conf. Report No. 95–1753, 95th Congress, 2nd Session, at 256, 264). Of course, LEAs may evaluate their projects more frequently than required in order to meet information needs for local decision making.

Comment. Although one commenter favored the long-term evaluation, several others objected to it. Four commenters said that the long-term evaluation should be optional. Twelve other commenters said that the requirement for a third data point is not necessary.

Response. No change has been made. Section 124(g)(2) of the Act requires LEAs to collect measurements of educational achievement in basic skills over at least a twelve-month period in order to determine whether regular school year programs have sustained effects over the summer.

In order to determine whether the effects of a project are sustained, it is necessary, first, to examine the effectiveness of the project after its completion, and second, to collect information about subsequent student achievement when project services are no longer provided. Section 124(k) of the Act requires LEAs to consider this information in developing subsequent programs and projects.

Comment. Two commenters said the requirements for the long-term evaluation should be more stringent. Four commenters said that mobility and high attrition would make long-term investigations difficult, and one said that LEAs would not find the information useful. One commenter said there should be some provision for SEA enforcement and technical assistance in this area.

Response. No change has been made. As the preamble to the proposed regulations explained, the intent of the long-term evaluation is to provide information for LEAs to use in planning projects that will result in long-term benefits for participating children. LEAs are required to use this information in their subsequent project planning (section 124(k)).

It is important that LEAs conduct the long-term evaluations in a manner that will be most useful for their local planning, and the establishment of uniform and possibly restrictive procedures for these evaluations is not appropriate. However, suggestions concerning the conduct of these evaluations will be provided in the evaluation section of the policy manual.

SEAs are required by sections 166 and 167 of the Act to monitor and provide technical assistance to LEAs on all aspects of title I projects and services, including evaluation. In addition, the regional technical assistance centers are available, on request, to provide technical assistance to SEAs and LEAs in the design of long-term evaluations.

Comment. Four commenters said that information from the long-term evaluations should be reported to the State and Federal governments. One commenter recommended that the regulations clarify that the long term evaluations do not have to be included in the LEA evaluation report.

Response. A change has been made. Section 116a.55(b) clarifies that, unless requested by the SEA, the results of long-term evaluations do not have to be included in the LEA evaluation report. The purpose of the long-term evaluation is to provide LEAs with information needed for local project planning. No uniform procedures are prescribed for the long-term evaluations; therefore, State and national summaries of the resulting data would not be feasible.

§ 116a.55 Local educational agency reporting.

Comment. One commenter favored the use of the normal curve equivalent (NCE) scale as the common reporting scale, while another preferred grade equivalent scores. Four commenters said that NCEs are hard to interpret to lay audiences, and three requested guidance regarding the size of NCE gain that would be considered educationally significant. One commenter recommended that SEAs convert the data to the common reporting scale.

Response. No change has been made. The technical properties of the NCE scale, including the size of gain that would be considered educationally significant, are currently under study. When available,

results of this analysis will be shared with SEAs and LEAs.

In reporting data for their own purposes, SEAs and LEAs are not required to use the common reporting scale, but may use percentiles or other scales. If NCE reporting is desired, staff members of the technical assistance centers are available to assist in the interpretation of evaluation results. With prior State permission, an LEA may submit the necessary information to the SEA, which will then make the conversion of data to the common scale (§ 116a.55(a)).

Comment. Four commenters said that maintaining individual data on title I participants for five years is too burdensome. Another said that SEAs should keep the records.

Response. No change has been made. Section 116a.55(c) requires that individual scores be kept so that the data can be examined subsequently for quality control purposes, if necessary. An SEA is similarly required by § 116a.56(d) to retain for a period of five years all the data used to develop its report. These record keeping requirements are authorized by Section 437 of the General Education Provisions Act.

§ 116a.56 State educational agency reporting.

Comment. One commenter said the regulations should specify how often the SEA must submit a sampling plan.

Response. No change has been made. Section 124(g) of the Act requires LEAs to evaluate the effectiveness of their programs according to the "evaluation schedule promulgated by the Commissioner." Section 183(b) requires the Commissioner to "develop . . . a schedule for conducting evaluations . . . designed to ensure that evaluations are conducted in representative samples of the local educational agencies in any State each year."

After consultation with representatives of SEAs and LEAs, OE issued a Title I Program Directive (INST. L 212.4), dated February 13, 1979, which provided guidance to SEAs in developing an evaluation schedule for their States. This directive covered the three-year evaluation cycle from 1979 to 1982. At the end of this cycle, OE will again consult with SEAs and LEAs regarding plans for the next three-year cycle of the evaluation schedule.

Comment. Several commenters requested clarification regarding SEA reporting requirements. One recommended that the phrase "achievement scores" in § 116a.56(c)(1) be changed to achievement gains, because it is gain scores that are actually reported. Another asked whether evaluations of summer projects are to be included.

Four other commenters made suggestions regarding how the data should be reported, such as reporting separately for children who were promoted and for children who were retained in grade, and for children in public and non-public schools.

Response. A change has been made. Section 116a.56(c)(1) was changed to indicate that an SEA is to report a statewide average of achievement gains, rather than achievement scores, resulting from title I participation.

Results from summer project evaluations need not be included in the SEA report. Section 116a.56(c) requires achievement data pertaining only to "regular school year projects." Additional clarification about data collection and reporting will be provided in the instructions accompanying the SEA reporting form and in the evaluation section of the policy manual.

Comment. Six commenters said that the regulations impose an increased data collection and reporting burden on SEAs and LEAs, although two said the regulations decrease that burden. Three commenters recommended that OE not request certain types of information, such as information relating achievement gains to hours of instruction or pupil-per-instructor ratio. One commenter suggested that there be a deadline for specifying any other information that might be requested by the Commissioner.

Response. A change has been made. The Commissioner believes that the data reporting requirements imposed by the regulations represent a reasonable balance between the need to provide Congress with important information about the effectiveness of title I and the need to keep the data collection burden for SEAs and LEAs at a minimum.

In response to suggestions received, § 116a.56(c)(2) now requires information relating achievement gain to hours of instruction and other variables for only a sample of grade levels. This will reduce the data reporting burden but still enable the Commissioner to report to Congress on how important factors such as hours of instruction are related to student achievement gain in title I projects.

An announcement describing the information to be contained and the reporting scale to be used in the SEA report covering each school year will be published in the **Federal Register** by February 15 of the preceding year, as required by Section 400A of the General Education Provisions Act.

Comment. Three commenters said that a performance report—required by § 116a.56(b)—based on a sample of LEAs would not be adequate, and two others recommended that a performance report based on all LEAs be submitted biennially. One commenter questioned the legal authority for the performance report.

Response. No change has been made. An annual performance report is currently required by the General Education Provisions Act Regulations (45 CFR 100b.432). An annual performance report will be required by the Department's Administration of Grants Regulations (45 CFR 74.82). This will apply to title I through incorporation in the Education Division's General Administrative Requirements (EDGAR), which have been published as a Notice of Proposed Rulemaking (44 FR 26298). These provisions, in turn, are required by OMB Circular A–110.

For the SEA report to the Commissioner—required by § 116a.56(b)—a performance report based on a representative sample of LEAs is considered adequate. An SEA may, under section 127(b) of the Act, require additional performance reporting if this reporting is needed by the SEA to perform its administrative duties.

§ 116a.57 Allowable Costs.

Comment. Two commenters said that money to support evaluation activities will have to come from program funds, and two others complained that no additional administrative funds are being provided to SEAs to fulfill their evaluation functions. One commenter expressed concern that LEA evaluation funds may be decreased because of the reduction in required LEA evaluations.

Response. No change has been made. Section 172 of the Act requires SEAs to collect and report evaluation data. This is merely one of the administrative duties of SEAs for which they are entitled to receive funds under section 194 of the Act.

At the local level, section 124 of the Act requires LEAs to conduct evaluations and to utilize the results of these evaluations in subsequent program planning. In general, evaluations are required only every third year. However, an LEA may conduct annual evaluations if they are needed for program planning and improvement. The LEA would, of course, have to justify those evaluation activities in its application to the SEA. Both OE and staff members of the technical assistance centers will work with SEAs and LEAs to make the required data collection activities as efficient as possible.

Comment. Some commenters said that the proposed regulations place undue restrictions on the use of title I funds. Seven commenters said that LEAs should be able to use title I funds for selection of children to participate in title I and for research purposes such as the development of local norms.

Two respondents said that the regulations should permit title I funds to be used for training parents in evaluation procedures. Another said title I funds should be permitted to cover the cost of preparing and submitting evaluation data to the Federal Joint Dissemination Review Panel for the approval of exemplary projects.

Response. No change has been made. The regulations continue the current policy that title I funds may not be used for selection of title I participants—except if the Regression model is used—or for research and development activities, including the development of local norms and test development.

The LEA may use title I funds, however, for the collection and analysis of information needed for the evaluation report and for the interpretation and dissemination of evaluation findings. The LEA may also use title I funds for the development of reporting forms that are needed to collect achievement data or other similar information about the project.

Allowable costs for parent training in evaluation and other parent activities will be addressed in a revision of other parts of the title I regulations, which will be published soon. Examples of evaluation activities that may be funded with title I funds are provided in the evaluation section of the policy manual.

Comment. Three commenters recommended that LEAs be permitted to use title I funds to test children no longer receiving title I services in order to meet the long term evaluation requirements of § 116a.54(b).

Response. A change has been made. Section 116a.57(b)(5) permits title I funds to be used to determine whether achievement gains measured over nine or twelve months are sustained over a longer period of time, as required by § 116a.54(b).

Comment. Five commenters were concerned about the use of title I funds for testing non-title I students. One of them recommended that LEAs be required to provide assurances that these funds would not be misused. Three others suggested changes to limit the number of non-title I children who could be tested. One commenter asked whether all students in the district could be tested with the Regression model. Another requested clarification of the phrase "except where data meeting these needs is already available."

Response. A change has been made. Section 116a.57(b)(2) and (3) now provide that with the Comparison Group and Regression models, an appropriate number of non-title I participants who are at the same grade levels as the participants may be tested with title I funds. Although the specific number of non-title I participants needed for these models may vary with the situation, the LEA is expected to test no more non-title I participants than it requires to obtain a valid estimate of expected performance.

Testing of non-title I participants is acceptable only if no information is available concerning children who could serve as a comparison group for these models, or if the available information would not meet the evaluation needs because of factors such as non-comparable tests or testing times.

[FR Doc. 79-31632 Filed 10-11-79; 8:45 am]

BILLING CODE 4110-02-M

federal register

Friday
October 12, 1979

Part IX

Federal Election Commission

Funding of Federal Candidate Debates; Proposed Regulations

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 110, and 114

Funding of Federal Candidate Debates; Proposed Regulations

AGENCY: Federal Election Commission.

ACTION: Proposed regulations.

SUMMARY: This notice requests public comment concerning payments by corporations and labor unions in connection with the staging and covering of Federal candidate debates. In this regard, the Commission seeks comment on several specific questions dealing with candidate debates. In addition, the Commission seeks comments on candidate debate regulations which were transmitted to Congress on June 28, 1979 and subsequently disapproved by the Senate. Both the specific questions and the proposed regulations are set forth under Supplementary Information.

DATE: Hearings will be held on October 23, 1979 at 10:00 a.m. and will be continued on October 24, 1979, at 10:00 a.m. Comments must be received on or before November 13, 1979.

ADDRESS: The hearings will be held at the Federal Election Commission Office located at 1325 K Street, NW., Washington, D.C. Those persons wishing to appear at the hearing are requested to please contact Patricia Ann Fiori at the address below.

FOR FURTHER INFORMATION CONTACT: Patricia Ann Fiori, Assistant General Counsel, 1325 K Street NW., Washington, D.C. 20463 (202) 523–4143.

SUPPLEMENTARY INFORMATION: The Commission adopted (pursuant to a July 12, 1977 Notice of Proposed Rulemaking, 42 FR 35856) proposed regulations concerning the sponsorship and funding of Federal candidate debates. The proposed regulations were transmitted to Congress on June 28, 1979 (44 FR 39348) and were disapproved by the Senate pursuant to 2 U.S.C. 438(c) on September 17, 1979.

Various questions are raised under the Federal Election Campaign Act of 1971, as amended, concerning amounts spent to fund Federal candidate debates. 2 U.S.C. 431(e) defines the term "contribution" as "a gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of influencing the nomination for election, or election, of any person to Federal office"; and, 2 U.S.C. 431(f) defines the term "expenditure" as "a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of * * * influencing the nomination for election, or the election, of any person to Federal office * * *." Contributions and expenditures as thus defined must be reported to the Commission pursuant to 2 U.S.C. 434(B) and are subject, *inter alia*, to certain limitations contained in 2 U.S.C. 441a. Furthermore, 2 U.S.C. 441b prohibits corporations and labor organizations from using their general treasury funds to make contributions or expenditures "in connection with" federal elections.

The proposed regulations were intended to respond to the issues presented by the League of Women Voters in the 1976 sponsorship of presidential debates. They would have created a narrow exemption that would have permitted certain tax exempt organizations to receive corporate and union funds to pay the costs of staging debates between candidates for Federal office. Without the proposed regulations, the use of corporate and union funds to stage such debates would be barred by 2 U.S.C 441b. The proposed regulations transmitted to Congress on June 28, 1979 were not intended to address the issue of whether incorporated news media staging and covering of candidate debates would be permissible under 2 U.S.C. § 431(f)(4)(A) and 441b. The Commission now requests comments on several questions concerning the funding of candidate debates in general, and, in addition, requests comments on specific questions regarding debates staged or covered by newspapers broadcasters. Comments on the proposed regulations transmitted to Congress on June 28, 1979 are also requested. Both the questions and regulations are set forth below.

Questions Concerning Payments by Corporations and Labor Unions in Connection With the Staging and Covering of Federal Candidate Debates

1. Should the Federal Election Commission adopt regulations dealing with corporate and union disbursements in connection with the staging and covering of candidate debates? If so, should the Commission distinguish between presidential candidate debates and congressional candidate debates? If so, how?

2. Under what circumstances or conditions are a corporation's or labor union's disbursement from its general treasury funds to finance a debate not a contribution or expenditure in connection with an election?

3. Should corporations and unions be permitted to donate funds to other organizations which stage debates? Should only organizations exempt from taxation under 26 U.S.C. 501(c)(3) be permitted to receive corporate and union funds to stage debates? Should other tax exempt organizations be permitted to receive such funds to stage debates?

4. If the Commission adopts regulations permitting only organizations exempt from taxation under 26 U.S.C. 501(c)(3) to receive corporate and union funds to stage candidate debates, should those regulations simply require that the debates be conducted in a nonpartisan manner, or should those regulations specify in detail the structure of such debates in order to avoid violations of 2 U.S.C. 441b? (See the proposed regulations attached hereto.)

5. How should the term "candidate debate" be defined? How are candidate debates different from joint or single candidate appearances?

6. How frequently and in what manner do broadcasting stations, newspapers, magazines, periodical publications, or other entities stage candidate debates?

7. Are broadcasting stations regulated in the staging of candidate debates exclusively by section 315 of the Communications Act of 1934 (47 U.S.C. 315), or also by the Federal Election Campaign Act of 1971, as amended, particularly 2 U.S.C. 431(f)(4)(A) and 441b? Would the result change for the purposes of 2 U.S.C. 431(f)(4)(A) and 441b when: (a) the debate is held in the broadcaster's own facilities; or (b) the debate is held in outside facilities?

8. If a broadcasting station does not invite all candidates for an office to participate in a debate, but in compliance with 47 U.S.C. 315 provides those candidates not invited with equal time in a non-debate format, would a contribution to those included in the debate result under 2 U.S.C. 431 or 441b?

9. Assuming that a broadcasting station may stage and cover a debate, how may this activity be funded without violating 2 U.S.C. 441b?

a. If an incorporated broadcasting station sets up a debate using the station facilities subject to section 315 of the Communications Act (47 U.S.C. 315), may the station sell commercial advertising time to corporations or unions to pay for the showing of the debate and run the commercial advertisements during the course of the debate without violating 2 U.S.C. 441b?

b. May the station find a corporation or union to underwrite the costs of such a program as a public service, running spots at the beginning or end of the program or other appropriate time to inform the viewers or listeners of the corporate or union underwriting?

c. May the station sell commercial advertising time to corporations or

unions to pay for the showing of the debate and run commercial advertisements during the course of the debate?

d. Would a corporation or union which made payments for advertising or underwriting as illustrated in questions 9a through c violate 2 U.S.C. 441b?

10. Would the staging of a candidate debate by a newspaper, magazine or other periodical publication be a news story, commentary or editorial within the meaning of 2 U.S.C. 431(f)(4)(A)? Would disbursements in connection with such activity by an incorporated newspaper, magazine, or other periodical publication be a violation of 2 U.S.C. 441b? Does the result change if the debate is staged: (a) In the newspaper's, magazine's or other periodical publication's own facilities; or (b) in outside facilities?

11. Would a newspaper which accepted corporated or labor union payments in connection with the staging of a debate violate 2 U.S.C. 441b? Would a corporation or labor union which made such payments violate 2 U.S.C. 441b?

12. If a newspaper, magazine or other periodical publication stages a debate and does not invite all candidates for an office to attend, would a contribution to those included in the debate result under 2 U.S.C. 431 or 441b?

13. Should the staging of candidate debates by a newspaper, magazine or other periodical be considered exempt under 2 U.S.C. 431(f)(4)(A) only if the Commission adopts regulations to insure their fairness and nonpartisan character?

14. Does the First Amendment to the United States Constitution limit the extent to which the Federal Election Commission may regulate the staging of candidate debates by newspapers, magazines or other periodical publications? If so, to what extent?

The following are the proposed regulations transmitted to Congress on June 28, 1979, which were subsequently disapproved by the Senate on September 17, 1979, and are printed below for information purposes only.

11 CFR 100.4(b)(16) is added to read as follows:

§ 100.4 Contribution.

* * * * *

(b) * * *

(16) Funds provided to defray costs incurred in sponsoring nonpartisan public candidate debates held in accordance with the provisions of 11 CFR 110.13.

11 CFR 100.7(b)(18) is added to read as follows:

§ 100.7 Expenditure.

* * * * *

(b) * * *

(18) Funds used to defray costs incurred in sponsoring nonpartisan public candidate debates held in accordance with the provisions of 11 CFR 110.13.

11 CFR 110.13 is added to read as follows:

§ 110.13 Nonpartisan public candidate debates

(a) *Sponsor.* A nonprofit organization which is exempt from federal taxation under 26 U.S.C. 501(c)(3) and which has a history of neither supporting nor endorsing candidates or political parties may sponsor nonpartisan public debates held in accordance with 11 CFR 110.13(b).

(b) *Debate Structure*—(1) *Presidential, House or Senate General Election Candidate Debates.* (i) If the sponsor invites one general election candidate who has been nominated by a major party to participate in a debate, then the sponsor must invite all candidates nominated for the same office by any major party to participate in the same debate.

(ii) If the sponsor invites one general election candidate who has been nominated for election to that office by a minor party to participate in a debate, then the sponsor must invite all candidates nominated for the same office by any minor party to participate in the same debate.

(iii) If the sponsor invites one general election candidate who has been nominated for election to that office by a new party to participate in a debate, then the sponsor must invite all candidates nominated for the same office by any new party to participate in the same debate.

(iv) If, in a debate under 11 CFR 110.13(b)(1)(i), only one major party candidate agrees to participate, then the sponsor must invite all minor party candidates nominated for the same office to participate in the debate. If, in a debate under 11 CFR 110.13(b)(1)(ii), only one minor party candidate agrees to participate, then sponsor must invite all new party candidates nominated for the same office to participate in the debate.

(v) The sponsor shall have the discretion to include any minor party, new party, independent or write-in candidate in any debate held under 11 CFR 110.13(b)(1).

(vi) If a sponsor holds a debate for presidential general election candidates, if may also hold a separate debate to which all vice-presidential running-mates of the candidates who participated in the general election debate are invited.

(vii) In States where the names of a candidate's electors, rather than the name of the candidate, will appear on a State election ballot, that candidate will be deemed to be the candidate for the purpose of 11 CFR 110.10(b)(1).

(2) *Presidential Caucus, Convention or Primary Election Candidate Debates.* (i) A sponsor may hold a presidential, caucus, convention or primary election candidate debate in any of the following ways:

(A) The sponsor shall invite all candidates qualified to appear on a state primary election ballot in a specified region, as well as each recognized, active candidate in any caucus or convention state in that region.

(B) In lieu of a debate held under 11 CFR 110.13 (2)(i) (A) or (C), the sponsor has the option of holding a debate to which all candidates of all parties of the same type (major, minor or new) in a specified region are invited.

(C) In lieu of a debate held in accordance with 11 CFR 110.13(b)(2)(i)(A) or (B), the sponsor has the option of holding a debate restricted to candidates seeking the nomination of one party in a specified region. If the sponsor chooses to hold a debate restricted to the candidates for a particular party's nomination, then the sponsor must also invite the candidates for nomination by each party of that type (major, minor or new) to participate in a similar separate debate restricted to the candidates seeking nomination by one party. However, where each of the parties of that type does not have at least two candidates seeking the nomination of that party, then the sponsor does not have the option to hold separate debates under this section.

(ii) In States where the name of a candidate's electors, or the name of delegate candidates pledged or committed to a presidential candidate seeking nomination of a party, rather than the name of the candidate, will appear on a State election ballot, that candidate will be deemed to be the candidate for the purposes of 11 CFR 110.13(b)(2).

(3) *House or Senate Caucus, Convention or Primary Election Candidate Debates.* (i) For House or Senate candidate debates in a primary election state, the sponsor shall invite all candidates who are seeking party nomination for the same office and are qualified to appear on the ballot; or in a caucus or convention state, the sponsor shall invite all recognized active

candidates seeking party nomination for the same office.

(ii) In lieu of a debate held under 11 CFR 110.13 (b)(3)(i) or (iii), the sponsor has the option of holding a debate to which all candidates of all parties of the same type (major, minor or new) in a specified region are invited.

(iii) In lieu of a debate held in accordance with 11 CFR 110.13(b)(3)(i) or (ii), the sponsor has the option of holding a debate restricted to candidates seeking the nomination of one party. If the sponsor chooses to hold a debate restricted to the candidates for a particular party nomination, then the sponsor must also invite the candidates for nomination by each party of that type (major, minor or new) to participate in a similar separate debate restricted to the candidates seeking nomination by one party. However, where each of the parties of that type does not have at least two candidates seeking the nomination of that party, then the sponsor does not have the option to hold separate debates under this section.

(4) *Two candidate requirement.* At least two candidates must participate in any debate held under 11 CFR 110.13(b).

(5) *Definitions.* For purposes of 11 CFR 110.13(b), the following definitions apply.

(i) The term "major party" means, with respect to any United States presidential, House, or Senate general election, a political party whose candidate for that office in the preceding election for that office received, as the candidate of such party 25 percent or more of the total number of popular votes received by all candidates for such office.

(ii) The term "minor party" means, with respect to any United States presidential, House, or Senate general election, a political party whose candidate for that office in the preceding election for that office received, as the candidate of such party, 5 percent or more but less than 25 percent of the total number or popular votes received by all candidates for such office.

(iii) The term "new party" means, with respect to any United States presidential, House, or Senate general election, a political party which is neither a major party nor a minor party.

(6) Endorsements by more than one party. For purposes of 11 CFR 110.13(b), a candidate receiving the endorsement of a major party and a minor or new party will be considered a major party candidate. A candidate receiving the endorsement of a minor party and a new party will be considered a minor party candidate.

11 CFR 114.4(e) is added to read as follows:

§ 114.4 Nonpartisan communication.

* * * * *

(e) *Nonpartisan public candidate debates.* A corporation or labor organization may donate funds to organizations qualified under 11 CFR 110.13 to sponsor nonpartisan public candidate debates held in accordance with the provisions of that section.

Dated: October 5, 1979.

Robert O. Tiernan,

Chairman, Federal Election Commission.

[FR Doc. 79-31560 Filed 10-11-79; 8:45 am]

BILLING CODE 6712-01-M

federal register

Friday
October 12, 1979

Part X

Council on Wage and Price Stability

Rules on Confidentiality, Access to Records and Council Factfinding

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Parts 702, 703, 704

Rules on Confidentiality, Access to Records and Council Factfinding

AGENCY: Council on Wage and Price Stability.

ACTION: Notice of Proposed Rulemaking, with comments requested.

SUMMARY: The Council proposes to revise Parts 702, 703, and 704 of Title 6 of the Code of Federal Regulations to restructure and consolidate the Council's rules implementating the Freedom of Information Act, as amended, 5 U.S.C. 552; the Privacy Act of 1974, 5 U.S.C. 552a; and the confidentiality and investigatory provisions of the Council on Wage and Price Stability Act, as amended, 12 U.S.C. 1904, note. Most of these changes reflect the Council's experience in administering these rules during the first program year. The remaining changes reflect editorial efforts to condense existing rules and make them clearer. The Council is soliciting public comment not only on the language of these proposed rules but on all aspects of its administration of the confidentiality, records-access, and investigatory rules.

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

ADDRESS: Comments should be addressed to Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Barbara Hunter (202) 456–6210.

SUPPLEMENTARY INFORMATION:

Part 702

The proposed Part 702 contains rules concerning public access to records. All sections of proposed Part 702 have been revised, reorganized, and renumbered.

The provisions regarding confidentiality of business records submitted to the Council have been clarified and consolidated into Subpart B of Part 702. Subpart B makes explicit the Council's policy of according blanket confidentiality to periodic reports (such as PM–1 and PAY–1) and is structured so as to encourage the voluntary submission of these and other data requested by the Council (see Section 702.11). The Council will continue its practice of making predeterminations of confidentiality through an eyes-only procedure, which formerly appeared in Part 704.

The proposed Subpart C of Part 702, titled "Data from Other Agencies," consolidates the Council's rules regarding confidential data obtained from Federal, State, and local governmental entities. These rules previously appeared in Part 704.

Proposed Subpart D of Part 702, regarding Freedom of Information Act requests, combines material that previously appeared in Part 702 with relevant provisions of former Part 704. Under proposed § 702.32(d), those who supplied confidential information are notified of a Freedom of Information Act request when a decision is made with respect to the request.

Part 703

The proposed Part 703 revises the Council's rules implementing the Privacy Act to incorporate editorial corrections and clarifications. The proposed rules do not depart in any material respect from the Council's current rules.

Part 704

The proposed Part 704 revises the Council's rules regarding investigations. As noted above, the rules governing confidentiality determinations have been incorporated into proposed Part 702. The proposed Part 704 also contains editorial corrections and clarifications.

The proposed Subpart B to Part 704, titled "Investigations," details the activities authorized by the Council on Wage and Price Stability Act (12 U.S.C. 1904 note). The section concerning immunity of periodic reports from legal process that previously appeared in Part 704 has been consolidated into proposed Part 702 (Section 702.14).

Proposed Subpart C to Part 704, relating to data from other agencies, is essentially unchanged from former Subpart D, except that the confidentiality provisions previously appearing in this Part have been consolidated into proposed Part 702.

Proposed Subpart D of Part 704, concerning the Council's subpoenas and orders, has been substantially rewritten so that the method for issuing such compulsory processes is the same regardless of the form used, and the procedures for challenging subpoenas or orders have been clarified. Proposed Subpart D now includes the former Subpart C concerning periodic reports.

Finally a new Subpart E has been proposed, setting forth in one Subpart the Council's procedures for investigatory hearings. The provisions relate to the notice of purpose and scope of the hearing, the authority of the presiding officer, and the rights of witnesses.

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

R. Robert Russell,

Director, Council on Wage and Price Stability.

Accordingly, the Council proposes to amend Title 6 CFR by revising Parts 702, 703 and 704 to read as follows:

PART 702—PUBLIC ACCESS TO RECORDS

Subpart A—General

Subpart B—Confidential Business Records

Subpart C—Records From Other Agencies

Subpart D—Requests for Disclosure of Records

Subpart E—Appeal

Subpart F—Access to Records; Fees

Authority: Freedom of Information Act, as amended (5 U.S.C. 552); Section 4 of the Council on Wage and Price Stability Act, as amended (12 U.S.C. 1904, note).

Subpart A—General

§ 702.1 Purpose and scope.

This Part establishes the Council's procedures for providing public access to Council records in accordance with the Freedom of Information Act, as amended, 5 U.S.C. 552, and for establishing the confidential status of specific records within the Council's custody or control, under Section 4 of the Council on Wage and Price Stability Act, as amended, 12 U.S.C. 1904, note.

§ 702.2 Waiver.

The Director or General Counsel may, as to an individual request for records, waive any of the procedural requirements or fees of this Part in order

to facilitate public disclosure of records that are not confidential or otherwise required to be withheld.

Subpart B—Confidential Business Records

§ 702.10 Requests for confidential treatment.

(a) Any person requesting confidential treatment of records submitted by that person to the Council should make the request in writing. The request should accompany the records for which confidential treatment is sought and identify with specificity each portion of the records believed to be confidential.

(b) To the extent possible, records for which confidential treatment is requested should be separately bound or otherwise segregated from any accompanying material for which confidential treatment is not requested. A second copy of records for which confidential treatment is requested, with the confidential information deleted, should be provided for public disclosure purposes.

§ 702.11 Confidential records.

(a) The following types of records will be treated as confidential:

(1) Periodic reports requested by the Council, such as PM–1 and PAY 1, containing product-line and other category information;

(2) Any record or portion of a record consisting of product line or other category information relating to an individual firm or person that is voluntarily provided to the Council with a request for confidential treatment and that would not have been provided but for the confidential treatment; and

(3) Any record or portion of a record consisting of product line or other category information relating to an individual firm or person that is obtained by subpoena or by order requiring periodic reports and that is considered by the Council to be confidential information.

(b) The following types of records may be treated as confidential:

(1) Privileged or confidential trade secrets and commercial or financial information, to the extent that such information is not in fact published or otherwise available on a nonconfidential basis;

(2) Inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the Council, to the extent that such documents have not been publicly released by the Council; and

(3) Other records exempt from the disclosure requirements of 5 U.S.C. 552.

§ 702.12 Predetermination of confidentially.

(a) Any person or organization making a voluntary submission of records to the Council may request a written predetermination from the General Counsel that a portion or all of those records will be treated as confidential. The request should comply with the requirements of § 702.10 and should be:

(1) Submitted directly to the General Counsel and clearly marked "CONDITIONAL SUBMISSION/EYES ONLY GENERAL COUNSEL"; and

(2) Accompanied by a statement explaining the basis for confidential treatment of such records.

(b) The Office of General Counsel will examine the records for which predetermination of confidential treatment is sought and promptly notify the party making the request of the determination.

(c) If the Office of General Counsel decides that any record or portion of a record submitted in accordance with the procedures of this section is not confidential, no other person will examine or reproduce that record. The Office of General Counsel will record the general type of information submitted, when it was furnished, and when it was returned; and the record will promptly be returned to the person who submitted it to the Council.

§ 702.13 Confidential treatment.

Any record or portion of a record accorded confidential treatment under § 702.11 and 702.12 will not be disclosed to anyone other than officers, members, and employees of the Council (including consultants who sign confidentially agreements). However, nothing stated herein will prohibit the Council from disclosing or publishing product line or other category information when the information is aggregated in a manner that does not separately disclose specific information obtained from an individual firm or person.

§ 702.14 Immunity of certain information from legal process.

Periodic reports requested by the Council and confidential product line or other category information submitted to the Council, and copies of such reports and information as retained by the reporting firm or person, will be immune from legal process.

Subpart C—Records From Other Agencies

§ 702.20 Response by agencies and departments to Council requests for records or information.

When supplying records or other information to the Council, a Federal, State, or local agency or department should: (a) indicate whether the records or other information are confidential; and (b) specify any of the agency's or department's applicable rules of practice and procedure that govern disclosure of the material supplied.

§ 702.21 Confidentiality of records or information obtained from other agencies and departments.

(a) Disclosure by the Council of data or other information obtained from a Federal, State, or local agency or department will be in accordance with 5 U.S.C. 552 and the applicable rules of practice and procedure of the agency or department from which the records or other information were obtained.

(b) If the agency or department from which the records or other informatiuon were obtained has no rules of practice and procedures governing disclosure, the Council will apply its own rules as set forth in this Part.

Subpart D—Request for Disclosure of Records

§ 702.30 Written requests.

Any request for records within the custody or control of the Council should be in writing and addressed to the Office of General Counsel. The request should describe and identify, in reasonable detail, the particular documents or records requested. The request should also state the maximum fee, calculated in accordance with the fee schedule in Subpart F, that the party making the request would be willing to pay, without further authorization, for search time and duplication of the requested records.

§ 702.31 Time for initial decision.

(a) The General Counsel will, within ten business days after receipt of a written request for records, determine whether to grant or deny the request, in whole or in part. When confidential information is requested, the General Counsel will consider, among other alternatives, the possibility of excising confidential matter from requested records and disclosing the nonconfidential portions.

(b) The General Counsel may extend by no more than ten business days the time within which decision will be made if: (1) There is a need to collect or examine a large volume of records; (2) There is a need to search for and collect the requested records from outside the Council's offices; or (3) There is a need to consult with another agency having a substantial interest in the decision. Notice will be sent to the person making the request, stating the reasons for the

extension and giving the expected date of the decision.

§ 702.32 Notice of initial decision.

(a) The General Counsel will, upon making a decision in response to a request for records, promptly give written notice to the person making the request.

(b) If the decision is to grant a request, in whole or in part, the notice will describe the records requested and the procedures for either making them available for inspection or delivering copies to the requesting party. The notice will also include a statement of the search and duplicating fees under Subpart F.

(c) If the decision is to deny a request, in whole or in part, the notice will briefly describe the records requested, state the reasons for denial, and notify the requesting party of the procedures for administrative appeal under Subpart E.

(d) When the request pertains to material that has been accorded confidential treatment under Subparts B or C, notice of the decision will be given to the person or agency who originally provided the information to the Council.

§ 702.33 Preservation of requests and notices.

The Office of General Counsel will preserve requests for records and notices of decisions for at least one year.

Subpart E—Appeal

§ 702.40 Appeal.

(a) Any person who receives a denial or partial denial of a request for records may, within 30 business days after the date of the decision, appeal the decision to the Director of the Council. Any person who has not received a timely response from the Council to a written request for records may also appeal to the Director for a decision.

(b) An appeal to the Director should be in writing and include a copy of the initial request, a copy of the General Counsel's decision (if one has been received), and a statement of the legal, factual, or other bases for the appeal.

§ 702.41 Time for appellate decision.

(a) The Director will, within 20 business days after receipt of an appeal, determine whether to grant or deny the appeal, in whole or in part.

(b) The Director may extend by no more than ten business days the time within which an appellate decision will be made for any of the reasons set forth in § 702.31(b). Notice will be sent to the person making the appeal stating the reasons for the extension and giving the expected date of the decision.

§ 702.42 Notice of appellate decision.

The Director will give written notice of the decision on appeal to the person making the appeal and, if applicable, to the person who originally provided the information to the Council. If adverse to the appealing party, the notice will state the reasons for the decision and the right to judicial review.

Subpart F—Access to Records; Fees

§ 702.50 Access.

Records that are made available pursuant to this Part will be made available promptly. If the records or copies are voluminous, the Office of General Counsel may provide for inspection and copying during regular business hours at the offices of the Council. Otherwise, copies of the requested records may be sent by mail or delivered to the person making the request.

§ 702.51 Fees.

(a) Fees may be charged by the Council for search time and duplication according to the following schedule:

(1) *Search for records*—$5 per hour when conducted by a clerical employee; $8 per hour when conducted by a professional employee.

(2) *Duplication of records*—$.25 per page.

(3) *Other*—When no specific fee has been established for a service, the Council may charge a reasonable fee based on direct costs. If requested records are stored at locations other than at the offices of the Council, costs of delivery to the Council's offices will be charged.

(b) Search costs are assessed regardless of whether the requested records exist or are determined to be confidential.

(c) Fees should be paid by check, money order, or bank draft made payable to the Treasurer of the United States.

§ 702.52 Prior approval or advance deposit of fees.

(a) When the Council estimates that the total of search-time costs, duplication expenses, or other fees will be greater than the amount authorized in the request (or, in the absence of such authorization, when the total estimated fees are greater than $25), the Council may ask the person requesting the records to authorize the estimated fees or reformulate the request.

(b) When the estimated fees exceed $25, the Council may ask the person requesting records to make an advance deposit.

(c) When the Council asks for advance approval of fees or a deposit, the time period for the Council to respond under §§ 702.31 and 702.41 will be suspended until an authorization, deposit, or new request is submitted.

PART 703—ACCESS TO COUNCIL RECORDS ABOUT AN INDIVIDUAL

Sec.

Authority: Privacy Act of 1974 (5 U.S.C. 552a); Council on Wage and Price Stability Act, as amended (12 U.S.C. 1904, note).

§ 703.1 Purpose and scope.

(a) This Part sets forth the regulations of the Council on Wage and Price Stability implementing the Privacy Act of 1974, 5 U.S.C. 552a. These regulations concern the Council's records that contain personal information about individuals indexed by personal identifiers.

(b) A request by any person or agency seeking disclosure of personal records of another individual pursuant to the Freedom of Information Act will be processed in accordance with Part 702.

(c) These regulations do not apply to members, officers, or employees of, or authorized consultants to, the Council who need to review the records in the performance of their official duties.

§ 703.2 Definitions.

(a) "Assistant Director" means the Council's Assistant Director for Administration and Management.

(b) "Individual" means a person who is a citizen of the United States or an alien lawfully admitted for permanent residence.

(c) "Maintain" includes maintain, collect, or use.

(d) "Record" means any item, collection, or grouping of information maintained by the Council about an individual that relates to such matters as education, financial transactions, medical history, criminal history, or

employment history and that contains the individual's name or an identifying number, symbol, or other identifying particular assigned to the individual.

(e) "System of records" or "records system" means a group of any records maintained by the Council from which information is retrieved by the name of an individual or some other individual identifier.

§ 703.3 Notice of systems of records maintained by the Council.

(a) The Council will publish in the Federal Register a description of the systems of records that the Council maintains. For each such system of records, the description will include:

(1) The system name;

(2) The system location;

(3) The categories of individuals covered by the system;

(4) The categories of records in the system;

(5) The Council's policies and practices for maintenance of the system;

(6) The system manager;

(7) The procedures for notification, access to and correction of records in the system; and

(8) The sources of information for the system.

(b) Notices of significant changes in or additions to the Council's systems of records will also be published.

§ 703.4 Right to request information.

(a) Any individual may request the Council to indicate whether a system of records contains a record pertaining to that individual. The request may be made by mail or in person during business hours at the Office of the Assistant Director, the Winder Building, 600 17th Street, N.W., Washington, D.C. 20506.

(b) Any individual, or that individual's properly authorized designee, who desires to review or obtain a copy of a record pertaining to that individual may make a request by mail or in person during business hours at the Office of the Assistant Director.

§ 703.5 Procedures for requests for access to records.

(a) Each individual requesting disclosure of a record under this Part should:

(1) Submit proof as required by Section 703.6 that he or she is the individual to whom the requested record relates; and

(2) Specify or describe the particular record and the system of records in which the record is maintained.

(b) An individual personally inspecting his records may be accompanied by another person of his or her choosing.

(c) Any individual who desires to have a record concerning that individual disclosed to or mailed to another person may authorize that other person to receive the requested information. The authorization must be in writing, signed by the individual, and notarized.

§ 703.6 Requirements for identification of individuals making requests.

(a) Any individual requesting access to records concerning that individual must establish his or her identity by:

(1) Presenting a document bearing a photograph and signature (such as a passport or driver's license);

(2) Presenting at least two items of identification bearing a name and address;

(3) Providing a written statement affirming his or her identity and the fact that he or she understands the penalties for making false statements (18 U.S.C. 1001 and 5 U.S.C. 552a(i)(3)); or

(4) Providing a written statement, signed by the individual and properly notarized, that he or she appeared before a notary public and submitted proof of identity acceptable to the notary public.

(b) Any individual requesting access to records concerning another must:

(1) Present the authorization required by § 703.5(c); and

(2) Establish his or her own identity as required by paragraph (a) of this Section.

§ 703.7 Disclosure of requested information.

(a) Subject to paragraph (b) of this section, the Assistant Director will promptly allow the requesting individual to see and/or have a copy of the requested record or, if applicable, send a copy of the record to the individual by mail.

(b) The Assistant Director may deny access to records in a system of records that is within the terms of 5 U.S.C. 552a (j) and (k), including those systems that are:

(1) Required by statute to be maintained and used solely as statistical records;

(2) Investigatory material compiled for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence; or

(3) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

(c) If the Assistant Director determines that the requested records are exempt from the right of access under paragraph (b) of this section or that the procedures in this Part have not been followed, a decision denying access will be sent to the requesting individual stating the reasons for denial and the right to an administrative appeal under § 703.10.

§ 703.8 Request for correction or amendment.

Any individual who has reviewed a record pertaining to that individual may file with the Assistant Director a written request to correct or amend all or any part of the record. The request should specify:

(a) The individual requesting the correction or amendment;

(b) The particular record and the system of records in which the record is maintained;

(c) The specific wording of the correction or amendment sought; and

(d) The basis for the request, including the submission of material to substantiate the proposed correction or amendment.

§ 703.9 Review of request for correction or amendment.

(a) Not later than ten business days after receipt of a request for correction or amendment, the Assistant Director will acknowledge receipt of the request and inform the individual whether further information is required before the request for correction or amendment can be decided.

(b) When all information is provided, the Assistant Director will make each requested correction or amendment to a record if such action will correct a record that is not accurate or complete. A copy of each corrected or amended record will be furnished to the individual who requested the action. To the extent feasible, previous recipients of the record will be notified of the amendment or correction.

(c) If the request for correction or amendment is denied, notice will be sent to the requesting individual stating the reasons for denial and the right to an administrative appeal under § 703.10.

§ 703.10 Appeal of initial denial of access, correction, or amendment.

(a) Any individual whose request for access, correction or amendment of a record is denied, in whole or in part, may within 30 business days file a written appeal with the Director of the Council. The appeal should specify:

(1) The individual making the appeal, the date of the initial request, and the date of the initial decision;

(2) The record to which access is sought or which is sought to be corrected or amended;

(3) The record system in which the record is contained; and

(4) The correction or amendment sought.

(b) Not later than 30 business days after receipt of an appeal, the Director will make a final decision. For good cause the Director may extend the 30-day period by promptly notifying the requesting individual that an extension has been made.

(c) If the appeal is granted, the Director will promptly notify the requesting individual that he or she may have access to the requested record or that the requested correction or amendment will be made. To the extent feasible, previous recipients of the record will be notified of the amendment or correction.

(d) If the Director refuses to grant access to the record, or declines to amend the record, the Director will so notify the requesting individual. The notice will be in writing and state the reasons for the decision, the right of judicial review and, if appropriate, the procedures for filing a Statement of Disagreement under § 703.11.

§ 703.11 Statement of disagreement.

Upon denial of a request to amend or correct a record, the requesting individual may submit to the Director a concise statement setting forth the reasons for disagreement with the denial. A copy of this Statement of Disagreement will be filed with the contested record, and that record will be marked to indicate that there is a disagreement. The Assistant Director will, to the extent feasible, send or make available the Statement of Disagreement to any past or future recipients of the disputed record, together with a brief statement of the reasons for denying the requested correction or amendment.

§ 703.12 Disclosure docket.

(a) The Assistant Director will maintain a Disclosure Docket in which there will be recorded each instance that a record is made available except when a disclosure is:

(1) To members, officers or employees of or authorized consultants to the Council who need to review the records in the performance of their official duties; or

(2) Pursuant to the Freedom of Information Act (5 U.S.C. 552).

(b) The Disclosure Docket will contain:

(1) A brief description of the disclosure;

(2) The date, nature and purpose of the disclosure; and

(3) The name and address of the person or agency to whom the disclosure was made.

(c) An individual may have access to any information maintained on the Disclosure Docket in accordance with the procedures specified in this Part, except for disclosure relating to law enforcement purposes made under 5 U.S.C. 552a(b)(7).

§ 703.13 Fees.

The Council will not charge an individual for the cost of searching for, copying, correcting, or amending a record.

§ 703.14 Penalties.

Any person who makes a false statement in connection with any request for a record, or an amendment thereto, is subject to the penalties prescribed in 18 U.S.C. 494, 495, and 1001; and 5 U.S.C. 552a(i)(3).

PART 704—FACTFINDING PROCEDURES

Authority: Council on Wage and Price Stability Act, as amended, (12 U.S.C. 1904, note); Executive Order 12092; Executive Order 12161.

Subpart A—General

§ 704.1 Purpose and scope.

This Part establishes the Council's procedures for conducting factual investigations, including (1) requesting data from other agencies; (2) issuing subpoenas for testimony and/or documents; (3) ordering the submission of periodic reports; and (4) conducting hearings.

§ 704.2 Definitions.

(a) "Documents" means all informational material, including but not limited to correspondence, memoranda, minutes of meetings, financial records, books, financial statements, purchase journals, working papers, drafts, computer output data, and data stored in electronic form.

(b) "Entity" means any person, company as defined in Subpart 705D of this Chapter, labor organization, charitable organization, or educational institution.

(c) "Presiding Officer" means any person properly authorized to preside at hearings under Subpart E of this Part.

§ 704.3 Notification of purpose.

Subpoenas for testimony and/or documents, orders requiring periodic reports, and notices of hearings issued under this Part will state the purpose of the Council's action.

Subpart B—Investigations

§ 704.10 Investigational policy.

The Council will monitor compliance with the voluntary pay and price standards and conduct investigations of inflationary activities in both the public and private sectors of the economy. In these monitoring and investigatory activities, the Council encourages voluntary submission of data requested by the Council. When and if necessary to obtain relevant information, the Council will use the compulsory processes authorized by the Council on Wage and Price Stability Act.

§ 704.11 Council investigations.

From time to time, the Council will conduct investigations into the economy generally, various sectors of the economy, specific industries, or particular entities relating to:

(a) Compliance with the voluntary pay and price standards;

(b) Industrial capacity, demand, supply, and the effects of economic concentration and anticompetitive practices on various sectors of the economy;

(c) Wage and price data bases for the various sectors of the economy;

(d) Productivity trends in both the public and private sectors of the economy, and the factors affecting such trends; and

(e) The effects on the economy of: (1) Participation of the United States in international trade and commerce, (2) changing patterns of supplies and prices of commodities in the world market, (3) investment of United States capital in foreign countries, (4) short and long term weather changes, (5) interest rates, (6) capital formation, and (7) changing patterns of world energy supplies.

Subpart C—Data From Other Agencies

§ 704.20 Collecting data from other agencies.

(a) The Chairman or Director of the Council may request data pertaining to the economy from any department or agency of the United States, and any State or local government agency or department that collects, generates, or otherwise prepares or maintains such data.

(b) Any Council request for data from another governmental department or agency will be addressed to the head of the agency or to any other appropriate official of the agency. The time and manner of an agency's response to a Council request for data will be determined after consultation with the appropriate official of that agency.

Subpart D—Subpoenas and Orders

§ 704.30 Subpoenas for testimony and/or documents.

(a) The Council may issue subpoenas for the attendance and testimony of witnesses at hearings and/or the delivery of relevant books, papers, or other documents relating to wages, costs, productivity, prices, sales, profits, imports and exports, and other aspects of business operations, by product line or by such other categories as the Council may prescribe.

(b) Subpoenas may be issued to any entity that, during its most recently completed fiscal year, had gross revenues from all sources in excess of $5,000,000.

(c) Subpoenas will be signed by the Chairman or Director of the Council, state the action required, and specify the time for compliance.

§ 704.31 Orders requiring submission of periodic reports.

(a) The Council may order submission of periodic reports from entities based on information maintained in the ordinary course of business relating to wages, costs, productivity, prices, sales, profits, imports, exports, and other aspects of business operations, by product line or by such other categories as the Council may prescribe. Periodic reports include single as well as multiple requests for specific information from individual entities or standard-form submissions (such as PM–1 and PAY–1) and related schedules. Periodic reports also include supporting documents relating to a particular submission.

(b) Orders requiring submission of periodic reports will be signed by the Chairman or Director of the Council, state the action required, and specify the time for compliance.

§ 704.32 Service of subpoenas or orders.

(a) Subpoenas and orders may be served by registered or certified mail addressed to the entity at its principal office or place of business. Service is complete on delivery. A return receipt will be proof of service by mail.

(b) Subpoenas and orders may also be served by personal delivery either to an individual authorized to accept service for the entity or by delivery to the principal office or place of business of the entity. Service is complete upon delivery. A certificate of service by the server is proof of service.

§ 704.33 Time for compliance and extensions of time.

(a) Subpoenas and orders are returnable within 20 business days after service or at such other time as the Chairman or Director of the Council may determine. If the return date is less than 20 business days, the reasons will be explained in the subpoena or order or accompanying letter.

(b) The General Counsel may approve amendment or modifications to the terms of a subpoena or order and, for good cause, may extend the time for compliance.

§ 704.34 Satisfactory compliance and certification.

(a) Compliance with a subpoena for testimony means appearing in person at the specified time and place and providing testimony under oath.

(b) Compliance with a subpoena for documents means delivery of the specified documents to the Office of General Council during regular business hours. All responses to a subpoena for documents should be accompanied by a certification of an authorized representative of the responding entity that he has examined the documents and, to the best of his information, knowledge, and belief, all documents responding to the subpoena have been provided.

(c) Compliance with an order requiring submission of periodic reports means delivery of the completed periodic reports to the Office of General Council during regular business hours. All responses to an order should be accompanied by a certification of an authorized representative of the responding entity that he has examined the statements contained in the completed periodic report and that all such statements are true and correct to the best of his information, knowledge, and belief.

§ 704.35 Procedures for objections.

(a) An entity served with a subpoena or order may file a Notice of Objection with the Director of the Council within ten business days after service or, if the return date is less than ten business days, at any time prior to the return date. A timely objection will stay the return date only as to the challenged portions of the subpoena or order.

(b) Objections to a subpoena or order should identify the challenged portions, state the factual and legal basis for each objection, and indicate the relief requested.

(c) An entity objecting to a subpoena on the ground that it does not have annual gross revenues from all sources in excess of $5,000,000 should submit proof by affidavit.

(d) Within 20 business days after the receipt of an objection, the Director will notify the objecting entity of the decision regarding the objection and the reasons therefor. If appropriate, the Director will specify a new return date.

§ 704.36 Noncompliance with subpoena or orders.

The Director may request the Attorney General to initiate an enforcement proceeding in a United States District Court against any entity that fails to comply with a subpoena or order issued by the Council.

Subpart E—Investigatory Hearings

§ 704.40 General.

(a) The Council may conduct investigatory hearings for the purposes of hearing testimony from witnesses and receiving documents and other data relating to the Council's monitoring and investigatory activities.

(b) The Chairman, Director, or any Member of the Council may preside at investigatory hearings or delegate such responsibilities to an employee of the Council or other person designated to be a Presiding Officer.

§ 704.41 Procedure for hearings.

(a) Matters to be heard will be set forth in a Notice of Hearing. The Notice

of Hearing will be published in the **Federal Register** reasonably in advance of the hearing date. To the extent possible, the Council will send copies of the Notice to persons or entities that have a direct and primary interest in the matters to be heard.

(b) Upon written request by an interested person or the Presiding Officer, the Chairman or Director may subpoena the attendance and testimony of witnesses and the production of relevant books, papers, and other documents as provided in this Part.

(c) The Chairman, Director, or any Member of the Council is authorized to administer oaths or delegate such authority to the Presiding Officer.

(d) The Presiding Officer will regulate the presentation of testimony and documentary evidence, dispose of procedural requests, and may for good cause strike or limit the presentation of irrelevant, immaterial, or unduly repetitious evidence.

(e) Hearings will be open to the public except by order of the Presiding Officer for any ground listed in 5 U.S.C. 552b(c).

§ 704.42 Rights of witnesses at hearings.

(a) Witnesses subpoenaed to hearings will be paid the same fees and mileage as are paid to witnesses in United States District Courts.

(b) Upon payment of lawfully prescribed costs, any person who testifies or appears at a hearing may obtain a copy of his or her testimony if it is transcribed stenographically or recorded electronically.

(c) Any person who testifies at a hearing may be represented by counsel.

[FR Doc. 79-31651 Filed 10-11-79; 8:45 am]

BILLING CODE 3175-01-M

federal register

Friday
October 12, 1979

Part XI

Department of Health, Education, and Welfare

Food and Drug Administration

Administrative Practices and Procedures; Reimbursement for Participation

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 10, 12, 13, 14, 15, and 16

[Docket No. 76P-0126]

Administrative Practices and Procedures; Reimbursement for Participation

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document establishes a pilot program for providing financial assistance to participants in certain administration proceedings of the Food and Drug Administration (FDA). The program is being established to determine whether the process of administrative decisionmaking will be enhanced by reimbursing participants whose participation in agency proceedings contributes or can reasonably be expected to contribute to a full and fair determination of the issues, but who would otherwise be unable to participate effectively.

EFFECTIVE DATE: The reporting and recordkeeping requirements contained in this rule have been submitted for approval by the Office of Management and Budget in accordance with the Federal Reports Act of 1942. This regulation will become effective upon the approval of the Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Alexander Grant (301–443–5006), or Ronald Wylie (301–443–2932), Office of Consumer Affairs (HF–7), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 25, 1976 (41 FR 35855), FDA issued an advance notice of proposed rulemaking (advance notice) concerning agency payment of participants in administrative proceedings. In the **Federal Register** of April 17, 1979 (44 FR 23044), FDA issued a proposed rule, providing procedures for reimbursing participants, in response to comments submitted on the advance notice and on the basis of further study. After reviewing the comments received on the proposal, the agency is issuing this final rule. The reporting and recordkeeping requirements contained in this rule have been submitted for approval by the Office of Management and Budget in accordance with the Federal Reports Act of 1942. This final rule will become effective immediately upon the approval of the Office of Management and Budget. FDA is making the final rule effective immediately upon the approval of the Office of Management and Budget because agency proceedings in which participants may be eligible for, and need, reimbursement may be ongoing or announced in the next 30 days, and because the agency anticipates that no one will be adversely affected by this action. As soon as approval is obtained from the Office of Management and Budget, the agency will publish a notice in the **Federal Register** stating that applications for reimbursement will be accepted. No applications will be accepted by the agency until the agency obtains approval from the Office of Management and Budget unless the agency, prior to obtaining the approval of the Office of Management and Budget, in a separate **Federal Register** notice, invites the submission of applications for a specific proceeding.

The agency emphasizes that this is a pilot program that will be closely evaluated.

II. Comments on the Advance Notice of Proposed Rulemaking and the Proposed Rule

FDA invited public comment on the advance notice and the proposed rule. In the preamble to the proposed rule (44 FR 23044), FDA generally described the comments on the advance notice and specifically delineated the major arguments advanced by those comments supporting and those opposing reimbursement. FDA stated that it would respond to comments on the advance notice, and the proposed rule should a final rule be published, and these comments are treated together where similar.

A. General Comments on the Advance Notice and the Proposed Rule

FDA invited public comment in the advance notice on general issues relating to the advisability of reimbursement and on 13 specific areas of interest raised by the Consumers Union petition to which the advance notice responded. One hundred and fifty-five comments on the advance notice were submitted, of which 31 supported and 124 opposed reimbursement. In issuing the proposed rule, the agency generally invited public comment on whether a demonstration program providing financial assistance to participants in administrative proceedings, under appropriate circumstances, should be established, and on the applicable scope, criteria, and procedures for the program. Fifty-three comments on the proposed rule were submitted, of which 38 supported and 15 opposed reimbursement.

1. Comments in support of reimbursement argued that consumers are not represented adequately, and that regulated industry is "overrepresented," in FDA proceedings. These comments maintained that this alleged imbalance results in agency decisions that reflect the views of those regulated, and that increased consumer participation in FDA proceedings would rectify the imbalance and improve agency decisionmaking by providing valuable information and perspectives that might not otherwise be available to FDA. Comments in opposition to reimbursement contended that consumer participation in agency proceedings is adequate now, that increased participation will lead to delay and obstruction of, and duplication in, those proceedings, and that FDA already adequately represents consumers and the "public interest."

The agency has found that participants in its proceedings tend to come primarily from the ranks of those regulated. For example, in the recent proceeding to withdraw approval of the use of DES (diethylstilbestrol) in animals, the participants were four manufacturers and four other groups that generally supported the position of those manufacturers. Moreover, considerable independent documentation supports the agency's conclusion as to imbalance in participation (see Cramton, "The Why, Where and How of Broadened Public Participation in the Administrative Process," 60 Geo. L. J. 525 (1972); Gellhorn, "Public Participation in Administrative Proceedings," 81 Yale L. J. 359 (1972); U.S. Senate Committee on Governmental Affairs, 95th Cong., 1st Sess., "Study on Federal Regulation," Vol. III, Public Participation in Regulatory Agency Proceedings, p. 13 (July 1977)). Although FDA does not believe that this imbalance results in agency decisions that favor industry, FDA recognizes the general problems inherent in agency exposure to only one view and the advantages to be derived from exposure to different perspectives. In particular, increased diversity in the views effectively presented to the agency is likely to lead to more sensitive, better informed, more effective, and wiser decisions.

The advantage of increased public participation has been acknowledged by public officials in all three branches of government (see 41 FR 35856 (August 25, 1976); Executive Order No. 12044, 43 FR 12661 (March 24, 1978)). Moreover, the value of that participation has been

documented in testimony offered in many congressional hearings (see Hearings on S. 2715 before the Senate Subcommittee on Administrative Practice, 94th Cong., 2d Sess. (Jan. 30, 1976 and Feb. 6, 1976); Hearings on Public Participation Funding in Federal Agency Proceedings before the Senate Subcommittee on Administrative Practice and Procedure, 96th Cong., 1st Sess. (July 20, 1979)) and in several studies (see Recommendation 28, 2 Recommendations and Reports of the Administrative Conference of the United States 35 (1970–1972); "National Highway Traffic Safety Administration's Evaluations and Recommendations" (1978)).

In FDA proceedings, there simply has been insufficient public participation to make a definitive assessment of its value; however, the participation that has occurred generally has been of assistance to the agency in its decisionmaking and has been quite helpful in several specific proceedings. For example, in the proceeding on iron in bread, the position advocated by a consumer participant ultimately was adopted by the Commissioner of FDA over the recommendations of both the agency Bureau and the Administrative Law Judge who presided in the proceeding.

The agency also believes that adequate safeguards presently are included in its procedural regulations to prevent any delay or obstruction in proceedings that might result from increased public participation. Moreover, this final rule should minimize duplication because applicants for reimbursement who represent an interest already adequately represented by a participant in the proceeding will not be reimbursed. Finally, although the agency understands and fully assumes its responsibility for the public interest, FDA recognizes that on many issues there may be differences of opinion on what decision would best serve the public interest and that funding the expression of views different from the agency's may assist the decisionmaking process.

2. Comments in favor of reimbursement stated that the most significant impediment to increased effective consumer participation in FDA proceedings is inability of consumers to meet the high costs of participating.

The agency agrees with this comment, which is substantiated by several studies (see *Cramton*, at 538 and *Senate Governmental Affairs Committee Study on Federal Regulation*, Vol. III at vii). This factor substantially influenced FDA's decision to promulgate this final rule.

3. Many comments were received on the issue of who should be eligible for reimbursement. Comments in support of reimbursement generally favored funding of "public interest groups" and individuals who represent consumer interests, but generally opposed payment to industry, trade associations, and small business. One comment specifically requested that units of local government be eligible. Comments in opposition to reimbursement generally expressed grave reservations about reimbursement, especially for public interest groups and individuals who "purport to" represent consumer interests because such potential recipients represent neither the "public interest" nor a majority of consumers, are "self-appointed" representatives of narrow, special interests, and ought to be able to raise sufficient funds to support their participation. Some comments contended that reimbursement would increase the number and strength of public interest lawyers and public interest organizations, many of which presently have adequate resources to participate but choose to allocate them for other purposes, and would encourage the development of public interest groups with no constituency. Moreover, these comments claimed that funded public interest groups would lose any incentive to raise outside funds. The comments generally favored equal funding for persons or organizations opposed to the views of those reimbursed as well as funding of industry, trade associations, and small businesses. Some comments stated that it was unfair to reimburse public interest representatives rather than these groups, which in turn would have to absorb additional costs imposed by increased consumer participation.

FDA has decided to reimburse any group or individual that satisfies the eligibility criteria relating to financial need and the value of the proposed participation. Whether an individual or organization that meets the criteria is "self-appointed" or not, whether its "constituency" is broad or narrow, and whether or not it really does speak for ordinary consumers are all irrelevant. The purpose of the funding program is to improve the administrative records on which FDA's decisions are based. If, in a particular case, an applicant can show that it will make a distinctive contribution that will improve the record for decision and that it needs funding in order to be able to make that contribution, then the public generally will benefit from governmental support of the proposed participation. Whether or not such funding will "strengthen" public interest organizations is also irrelvevant. If the funding of participants improves regulatory decisionmaking, as expected, the funds involved will have been well spent, regardless of any collateral effect on public interest groups or public interest lawyers. In fact, FDA's budget will be formulated within the context of many competing priorities for relatively limited public revenue and therefore it is highly unlikely that in the foreseeable future the FDA reimbursement program will be sufficiently large to have a material effect on public interest organizations.

Funding of persons or organizations opposing the views of those reimbursed as a matter of general policy would be unwise and probably unlawful. It would divert limited funds from those who need them in order to participate to those who do not. It would also violate the restrictions established by the Comptroller General, and thus probably would be an unauthorized expenditure of Federal funds.

4. FDA invited comments on whether providing reimbursement to a small business or other applicant with a financial interest in the outcome of the proceeding would create a conflict of interest under 18 U.S.C. 208(a), and , if so, whether a waiver under 18 U.S.C. 208(b) would be permissible. Several comments stated that these applicants should not be considered special government employees under 18 U.S.C. 208. Two comments found a conflict of interest; one favored, and one opposed, a waiver.

Upon consideration of these comments and reconsideration of the issues raised, the agency has concluded that Congress did not intend that 18 U.S.C. 208(a) apply to the reimbursement of such applicants. Section 208(a) prohibits a special government employee from participating in any government proceeding in which that employee has a financial interest. This section is applicable only to individuals, and, therefore, organizations and their staff, including small businesses, receiving reimbursement under the program would not be subject to section 208's conflict of interest prohibitions. Moreover, the agency has determined that individuals, who are not associated with any organization, may receive reimbursement under this program without violating section 208(a). Section 208(a) does not apply to these individuals because they will not be performing governmental functions and will not be representing or advising the government. They will not be special government employees (unlike advisory

committee members) and will not have the special duty of loyalty to the government that is owed by government employees. Rather, they will be independent parties whose dealings with the government will be at arms' length: they will present their evidence and arguments for consideration on their merits, in the same way as any other litigants in administrative proceedings. This interpretation is also consistent with Civil Service regulations on the subject. These regulations provide that "* * * one who is requested to appear before a Government agency to present the views of a non-governmental organization or group which he [or she] represents, or for which he [or she] is in a position to speak, does not act as a servant of the Government and is not its officer or employee." Federal Personnel Manual (1969), Chapter 735, Appendix C, p. 4. Thus, 18 U.S.C. 208 does not prohibit individuals, including businesses, from participating in the reimbursement program.

5. Some comments expressed concern generally about agency ability to select those applicants who can best represent the "public interest" and specifically about the potential for abuse in the selection process. Several comments stated that FDA might fund only those applicants who would subscribe to the agency point of view and would eventually co-opt those reimbursed. The alleged abuses that have arisen in the reimbursement program instituted by the FTC under the Magnuson-Moss legislation were cited as examples of these problems.

FDA is sensitive to the potential for abuse and has tried to minimize that potential by providing clear, explicit criteria for eligibility, which are to be applied judiciously by an Evaluation Board, whose composition is meant to ensure impartiality. Where a memeber of the Board is involved in a proceeding funded under the reimbursement program, that member would be excluded from ruling on applications for reimbursement in that proceeding. Moreover, the agency will encourage participation in FDA proceedings of those who traditionally have not participated (such as small businesses) by trying to notify them of the availability of reimbursement. Persons who are interested in, or have questions about, the reimbursement program are encouraged to contact the Office of Consumer Affairs at the address and phone numbers provided above.

6. Some comments noted generally the potential administrative difficulties FDA would encounter in implementing a reimbursement program. The agency has studied such problems in the implementation of similar programs by other agencies. FDA has not found the difficulties to be insurmountable, has tailored the provisions of this final rule and implementation of the agency program to mitigate them, and has tried to maintain sufficient flexibility in this pilot program to respond to any unforeseen difficulties that may arise.

7. Numerous comments expressed fiscal concern about reimbursement. Many thought that reimbursement would be too expensive—contribute to inflation, impose an additional burden on taxpayers and deplete the FDA budget. Some argued that already scarce agency resources should be used to improve FDA's efforts rather than to duplicate them.

The agency is sensitive to these economic considerations; however, the resources allocated to this reimbursement program will constitute a very small portion of the FDA budget. Moreover, reimbursement often may secure valuable information and views at a relatively low price. The agency also believes that allocation of these resources for reimbursement is justified by the new and different information and perspectives that public participation, as opposed to additional agency effort, might provide. Reimbursement also should not lead to duplication of agency efforts, because reimbursement will not be awarded to applicants who represent an interest already adequately represented by or before the agency. In sum, the expected benefit, in improved decisionmaking, that should result from reimbursement outweighs the cost of the reimbursement program.

8. Some comments claimed that reimbursement is unconstitutional. They relied most frequently on the Equal Protection Clause.

The FDA believes that reimbursement clearly is constitutional and that any possible distinction that may be made between applicants for funding would not violate the Equal Protection Clause because it would be based on clearly articulated standards that are directly related to the purpose for which reimbursement is provided. Moreover, the funding of some participants in a proceeding will not deprive any other party of a fully equal right to be heard in the proceeding. The Evaluation Board will have no role in the final outcome of a proceeding in which it has awarded funding. Nothing in the jurisprudence of the Equal Protection Clause bars the government from spending funds in a fair, open, and rational way and in accordance with published criteria to support participation in agency proceedings in order to improve the quality of regulatory decisionmaking.

9. Numerous alternative schemes for accomplishing the goals sought to be achieved by providing reimbursement were mentioned in the comments. Some comments suggested that public participants raise their own funds for participating, simply represent themselves, or employ other means of influencing agency decisionmaking, for example, letter writing. Other comments expressed the view that FDA should generally be more effective and specifically examine the effectiveness of its Office of Consumer Affairs; modify its procedures, especially those that would reduce costs of public participation; or rely on consumer surveys, FDA consumer representatives, and advisory comittees. Some comments suggested that the agency create a public counsel or consumer ombudsman; use agency staff to assist the public preparing for participation; or hold hearings in locations other than Washington, DC. Others recommended that FDA await congressional action on legislative proposals to remedy the problems addressed by the reimbursement program and on proposals providing explicit authority for reimbursement.

FDA believes that most of these comments have some merit. The agency already has followed or adopted many of these suggestions and finds that some of them are useful complements to a program of reimbursement. FDA believes, however, that at this time none of these alternatives alone, or in combination, can serve as a satisfactory substitute for a reimbursement program. In many instances, there is simply no form of public participation that is as effective as the continuing, first-hand participation of an individual or an organization as a party to a proceeding. Where government funding is necessary for such participation to occur, FDA intends to provide it through this pilot effort, in accordance with the applicable procedures, criteria, and limitations.

10. In the advance notice, the agency invited public document on the amount of public funds that should be allocated to reimbursement and from what other FDA activities the funds should be taken. Most comments simply had no opinion on these questions, due in large measure to inability to estimate precisely how much funding should be allocated for reimbursement and lack of knowledge respecting the budgeting process at FDA.

In the proposed rule, the agency stated that it would announce annually the total funding allocated to reimbursement and that the Evaluation

Board would annually establish a presumptive limit on the total amount of money to be provided for reimbursement for any one proceeding. FDA will allocate up to $250,000 (exclusive of all administrative and program support costs) for reimbursement to support this pilot program. The agency has, however, decided not to set a presumptive limit on the total amount of money to be provided for reimbursement for any one proceeding. The agency reached this decision because the number of applications and the amount or reimbursement requested per applicant is expected to vary substantially from proceeding to proceeding. Establishing one presumptive limit for all proceedings funded under the reimbursement program would therefore serve little or no useful purpose. Applicants should, however, bear in mind the total allocation for the entire program ($250,000) when preparing applications for reimbursement funds.

11. One comment on the advance notice suggested that reimbursement not be made available to participants in FDA proceedings in progress on the effective date of this regulation because such funding might delay completion of those proceedings.

The agency rejects any blanket prohibition on providing reimbursement for ongoing proceedings os that it may retain sufficient flexibility to fund participants in any proceeding where reimbursement appears appropriate and will not unduly prolong the proceeding. FDA will publish a special **Federal Register** notice alerting participants to the availability of reimbursement in those ongoing proceedings in which the agency will consider application for reimbursement.

12. Several comments questioned agency reimbursement in light of the recent decision in *Health Research Group* v. *Kennedy*, C.A. No. 77–0734 (D.D.C. Mar. 13, 1979). The District Court found that certain public interest organizations, which do not have members, may not satisfy the requirements of "associational standing," in order to seek judicial review. "Associational standing" is a legal doctrine that requires an association seeking legal relief to show that the action it is challenging in court has an effect on the association.

FDA believes that case does not apply to agency reimbursement, since it relates only to standing to bring an original action in the courts rather than to the right to participate in agency proceedings, or to reimbursement therefor. Moreover, the agency has made a conscious policy choice not to impose any "standing" requirements on those who wish to participate in agency proceedings (see §§ 10.3(a)(12) and 12.45; see also § 10.45). Furthermore, the suggestion that the decision in *Health Research Group* v. *Kennedy* requires modifications in the reimbursement program misconstrues the purpose of funding participants—encouragement of effective presentation of the broadest spectrum of valuable perspectives in agency proceedings, regardless of the makeup of the particular participant who is making the presentation.

B. Comments on FDA Authority

13. A significant number of comments on the advance notice and the proposed rule questioned FDA's authority to reimburse participants.

A thorough discussion of the issue, which is meant to be responsive to those questions pertaining to authority raised by comments on the advance notice, was provided in the preamble to the proposed rule (see 44 FR 23046 through 23048). Although some comments on the proposed rule challenged that analysis of the agency's authority, FDA believes that that assessment was thorough and accurate and that no comment has been made that would preclude establishment of this program. However, in the interest of responsiveness, FDA will reply to each objection relating to its authority.

14. Several comments on the proposed rule did question the weight accorded by the agency, in analyzing its authority, to certain discrete sources—the judicial decisions in *Greene County Planning Board* v. *Federal Power Commission*, 559 F. 2d 1227, 1237 (2d Cir. 1977 *en banc*), *cert. denied*, 98 S. Ct. 1280 (1978) and *Chamber of Commerce of the United States* v. *Department of Agriculture*, 459 F. Supp. 216 (D.D.C. 1978); the statutes that provide implied authority for agency reimbursement; the opinions on agency authority of the Comptroller General; the opinions on the applicability of *Greene County* by the Department of Justice Office of Legal Counsel and by the Attorney General; and the House-Senate Conference Committee Report on FDA's appropriation for the 1979 fiscal year.

The agency believes that on balance these authorities weigh strongly in favor of finding agency authority, and that no other, contrary, authorities warrant a different conclusion.

15. Some comments on the proposal argued that the decision in the *Greene County* case generally was dispositive of the issue of agency reimbursement authority and specifically overruled the Comptroller General's decisions respecting agency authority. These comments contended that FDA's rationale for finding statutory authority for reimbursement was indistinguishable from the rationale rejected by the court in *Greene County*. Moreover, these comments characterized as interesting, but gratuitous, commentary the opinions of the Department of Justice and of the Attorney General, which stated that each agency should decide for itself whether it possesses authority because the *Greene County* opinion did not apply to agencies other than FPC (now the Federal Energy Regulatory Commission).

FDA does not find these comments persuasive. The agency believes that *Greene County* applies only to the FPC and that the reasoning of the Comptroller General as well as that of the Department of Justice and of the Attorney General therefore does apply to FDA. Thus, the agency adopts the analysis in the proposed rule, in which FDA examined its statutes and found agency authority (seed 44 FR 23046–23047). FDA also notes that other agencies have not considered themselves bound by the opinion in *Greene County*, but rather have proceeded to consider whether they have authority, have found it, and have either proposed or established reimbursement programs (see 44 FR 23045–23046).

16. Several comments also contended that *Greene County* requires explicit congressional authorization for agency reimbursement, which the comments noted FDA does not have. Those comments found deficient FDA's contention that it has reimbursement authority, and they were particularly critical of the agency's reliance on its statutes, especially the 1979 appropriations legislation, the Conference Committee Report that accompanied that legislation, and the opinions of the Comptroller General.

FDA believes that *Greene County* does not apply to the agency or require express congressional authorization for FDA reimbursement. The agency also finds that its statutes provide ample authority to reimburse participants in accordance with the rulings of the Comptroller General. Moreover, FDA believes that the Conference Committee Report is a very persuasive indication of congressional understanding that FDA has sufficient authority to initiate a pilot reimbursement program.

17. Some comments asserted that the passage of legislation expressly authorizing reimbursement by two agencies and introduction and defeat of legislation providing explicit authority for agency reimbursement on a government-wide basis were clear evidence that Congress believes

agencies lack implied reimbursement authority.

It is equally plausible that the legislation providing for reimbursement on a government-wide basis was intended to remove all doubts that may arise from variations in the language of different statutes currently in effect, to provide clear guidance to agencies that are initiating reimbursement programs and to eliminate wasteful duplication by bringing uniformity to those efforts, and to hasten the establishment of reimbursement programs by more agencies. Moreover, this congressional action is responsive to the Comptroller General's suggestion that the "parameters of such financial assistance, and the scope and limitations on the use of appropriated funds for this purpose * * * be fully set forth by the Congress in legislation, as was done in the case of FTC by the 'Magnuson-Moss' Act" (Decision B–92288, Feb. 19, 1976, p. 8). In general, reliable conclusions as to congressional intent cannot be drawn from the failure of Congress to enact legislation. See *Helvering* v. *Hallock*, 309 U.S. 106, 119, 121 (1940); *United States* v. *Southern Underwriters Association*, 322 U.S. 533, 560–561 (1944). Finally, an early, and perhaps the most accurate, expression of congressional intent may be the explanation provided by the House-Senate Conference Committee for its decision to delete a provision expressly authorizing reimbursement from the Energy Reorganization Act of 1974:

> The deletion of [the financial assistance provision] is in no way intended to express an opinion that parties are or are not now entitled to some reimbursement for any or all costs incurred in licensing proceedings * * * since it appears that there is nothing in the Atomic Energy Act, as amended, which would preclude the Commission from reimbursing parties where it deems it necessary. H.R. Rep. No. 93–1445, 93d Cong., 2d Sess. 37 (1974).

18. A few comments argued that the Second Circuit's reliance in *Greene County* on *Alyeska Pipeline Service Co.* v. *Wilderness*, 421 U.S. 240 (1975) and *Turner* v. *FCC*, 514 F.2d 1254 (D.C. Cir. 1975) specifically prohibits agency reimbursement in the absence of express congressional authorization.

However, this analysis overlooks the fact that neither case involved the question of reimbursement by an agency from its own funds for public participation in administrative proceedings, and therefore, the cases do not apply. In *Alyeska*, the Court examined fee shifting between parties in court litigation. Even though *Turner* did involve litigants in an administrative proceeding, the ruling there still applied only to the question of fee shifting between those parties.

19. A few comments argued that 31 U.S.C. 628, which provides that "sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they are respectively made," precludes reimbursement by FDA.

The agency rejects these commentsd as an overly literal reading of the statutory section and one that would render it unworkable. Congress could not provide and has not provided explicitly for every expenditure by FDA or any other agency. FDA's reading of this statutory section accords with that of the Comptroller General (see Decision B–92288, Feb. 19, 1976, p. 3).

20. Some comments denigrated the significance of the *Chamber of Commerce* opinion, especially vis-a-vis *Greene County*, contending that the decision was not one on the merits but merely a ruling on a request for preliminary relief and that the underlying facts presented in the case were distinguishable from those presented by *Greene County*.

The case did arise in the context of a request for preliminary relief and technically involved agency funding of a study, rather than direct public participation. However, the court, in holding that USDA has implied statutory authority to reimburse public participants in its proceedings, provided a rationale that dealt thoroughly and explicitly with the merits of the very question presented in *Greene County* and raised in these comments (see *Chamber of Commerce of the United States* v. *Department of Agriculture*, 459 F. Supp. 216, 221–222 (D.D.C. 1978)).

21. One comment contended that the proposed criteria for reimbursement went beyond the scope of the rulings of the Comptroller General on which FDA reimbursement ostensibly is required to be based.

FDA believes that the criteria included in the final rule are consistent with the rulings of the Comptroller General. For more detailed discussion of these criteria, see paragraphs 71, 73, 74, 76, and 77 below.

C. Comments on Specific Provisions of the Proposed Rule

22. FDA has included, for purposes of clarity, specificity, simplification, and consistency, agency-initiated nonsubstantive changes in specific provisions of the final rule. These changes will not be noted in the discussion below.

23. Numerous comments on § 10.200 addressed the question of those FDA proceedings in which reimbursement should be made available. Those comments that favored reimbursement generally requested that it be provided for participation in all types of agency proceedings, particularly notice and comment rulemaking. One comment expressed the view that payment for participation in Part 12 proceedings might be even less appropriate than reimbursement for initiating a proceeding or for participating in a notice and comment proceeding. This comment stated that public interest groups traditionally initiate proceedings and then rely on FDA to represent their views once the administrative hearing phase of the proceeding begins. The comment also noted that policy advice provided by the public in notice and comment proceedings may significantly improve agency decisionmaking.

Comments that opposed reimbursement generally contended that it should be available only for participation in Part 12 proceedings and that separate demonstration programs should be conducted under Parts 13, 14, 15, or 16. Other comments suggested that the agency reimburse participants in proceedings on the basis of the importance to the public of the issues raised, the benefit to be derived from public participation, and the interest of the public in participating. Some comments substantially agreed with FDA's proposal to make Part 12 proceedings the focus of the program, but urged the agency to retain sufficient flexibility to provide reimbursement in proceedings under Parts 13, 14, 15, and 16 where appropriate.

FDA has decided to proceed in the manner set forth in the preamble to the proposed rule and for the reasons stated there (see 44 FR 23048). Should the emphasis on funding Part 12 proceedings appear unwarranted, reimbursement can be provided for proceedings conducted under Parts 13, 14, 15, or 16. FDA has decided not to provide reimbursement for participation in notice and comment proceedings because the agency believes maximum benefit will be derived from the scarce resources available for this program by funding participartion in Part 12, 13, 14, 15, and 16 proceedings. Moreover, the cost of these proceedings generally exceeds that incurred in participating in notice and comment rulemaking (see the discussion of costs at 44 FR 23046). If evaluation of the pilot program reveals that agency funds for reimbursement might be better spent on other types of proceedings, such as notice and comment rulemaking, appropriate changes can be made at that time should FDA decide to continue the program.

24. One comment suggested that the final rule require FDA to develop a standard application form.

The agency is in the process of preparing application forms, which will be circulated to interested persons as part of the agency's effort to encourage participation in the program. See paragraph 5, above. These forms also will be available upon request from the Office of Consumer Affairs. It is unnecessary, however, to provide for preparation of application forms in the rule.

25. Several comments contended that § 10.210(a) provides insufficient time for the submission of applications and objected to FDA's statement that it would favor applications submitted early. One comment suggested that such favoritism might result in the submission of poorly prepared applications, and another suggested that applicants located outside Washington, DC, would be disadvantaged.

The agency rejects these comments. FDA will retain the proposed time frame for submission of applications because the agency believes it will provide sufficient time for preparation and is necessary to help expedite review of applications and timely completion of proceedings in which reimbursement is available. The agency intends to favor early applications because it should provide an incentive for applicants to avoid delay. Of course, applications that are inadequate would not be favored, regardless of how early they are submitted.

26. One comment suggested that provision be made in § 10.210(a) to enable the Board to extend the time limit for filing an application where FDA is responsible for delays in the application review process, that is, by requesting submission of additional information.

The agency rejects this comment. FDA has not provided for this contingency in the final rule because it is unncessary. Applicants will not be penalized if consideration of their applications is delayed due to the fault of FDA.

27. One comment suggested that applicants be required to file applications only with the Hearing Clerk.

FDA adopts this comment. Section 10.210(a) now requires that four copies of each application be filed only with the Hearing Clerk.

28. One comment suggested that FDA announce the availability of reimbursement for participation in each proceeding where reimbursement will be provided.

The agency adopts this comment. Section 10.210(a) of the final rule provides for notification of availability of reimbursement as part of all notices of hearing in Part 12, 13, 14, or 15 proceedings and as part of all notices of opportunity for hearing in Part 16 proceedings. Technical conforming amendments are made in Parts 12, 13, 14, 15, and 16.

29. One comment criticized as a "trap for unwary citizen groups" the requirement of § 10.210(b) that the application be in the form of a sworn statement.

FDA has decided to respond to this criticism by providing explicit instructions for compliance with the requirement in the application form.

30. A few comments suggested that an applicant's past or present affiliation with FDA or with a business regulated by FDA be identified in the applicant's submission.

FDA adopts this comment. Section 10.210(b)(1) now requires that affiliation with FDA or a business regulated by FDA on the part of an individual applicant, or members of the board or employees of an organization applying for reimbursement, be identified. The agency believes that this provision will facilitate decisionmaking on reimbursement, minimize the appearance of bias and/or conflict of interest, and enhance the credibility of the reimbursement program.

31. One comment suggested that an applicant be required to identify its organizational structure, process of officer selection, and voting privileges of its members.

FDA rejects this comment. The agency believes that the information required in the final rule is sufficient to permit the Evaluation Board to determine whether an applicant meets the eligibility requirements.

32. One comment recommended that applicants be required to secure designation as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

The agency rejects this comment. FDA wishes to retain sufficient flexibility to reimburse any applicant that can satisfy the eligibility criteria. Moreover, the suggested requirement would serve little purpose, would be burdensome, and might discourage persons from submitting applications.

33. Several comments expressed concern about the possibility of payment of reimbursement to "professional" participants, that is, those whose contribution is likely to be of little value because their major motivation is to obtain reimbursement funds. These comments suggested that applicants be required to demonstrate their relationship to those whom they seek to represent and their prior interest in the subject matter of the proceeding.

FDA is sensitive to the problem of reimbursing "professional" participants, and believes that the final rule substantially complies with the suggestions made. The rule requires submission of information on whether an applicant is an appropriate representative of other persons similarly affected (§ 10.210(b)(3)); on an applicant's prior experience (§ 10.210 (b)(6) and (b)(14)); and on other reimbursement paid an applicant by the Federal Government (§ 10.210(b)(14)). For a discussion of one problem closely related to the issues raised by these comments, see paragraph 12 above.

34. One comment suggested that the language of § 10.210(b)(4) be modified to require an applicant to describe "any past or present or contemplated contracting, consulting, eleemosynary, or other financial relationship, of the applicant with any individual or organization having an economic interest in the outcome of the proceeding for which reimbursement is sought."

The agency has changed the wording of this paragraph to comply substantially with this suggestion.

35. One comment suggested that § 10.220(c)(3) (i), (ii), (iii) and (iv) be reprinted on the application form in the area provided for information responsive to the requirements imposed by § 10.210(b) (5), (7), (6), and (8) through (12), respectively.

FDA adopts the suggestion.

36. One comment asserted that § 10.210(b)(6), which requires an applicant to discuss why it is an "appropriate" representative of the position(s) it proposes to present, should use the term "competent" rather than appropriate to avoid confusion with § 10.210(b)(3), which seeks information on appropriateness.

FDA adopts the comment. Section 10.210(b)(6) is intended to solicit information concerning an applicant's competence, and therefore that term should be used.

37. Several comments suggested that § 10.210(b)(10) require an applicant to explain why less than the desired degree of participation would not suffice to effectively represent its views.

FDA rejects this comment. If the degree of participation for which the applicant seeks reimbursement exceeds that required for adequate representation, funding would not be provided to that applicant. FDA can make this determination on the basis of the specific information it already requires the applicant to submit. Therefore, it is unnecessary to require an additional narrative statement on

this subject. Moreover, one reason for establishment of this program is the recognition that increased, effective public participation at the actual proceedings held under Parts 12, 13, 14, 15, and 16 is needed (see the discussion in paragraph 1 above).

38. Several comments questioned the necessity for requiring submission of financial information generally and by individuals specifically under § 10.210(b)(11).

FDA is requiring submission of this information because the agency believes that it needs it in order to determine accurately whether an applicant meets the financial eligibility criterion for reimbursement.

39. Several comments expressed concern generally about the burdensome nature of the financial disclosure requirements of § 10.210(b)(11).

FDA rejects these comments. The agency needs the information required to be submitted in order to make the requisite determinations respecting eligibility, and it believes the requirements will not impose an undue burden on applicants.

The agency adopts this suggestion.

40. Several comments contended that the disclosure of financial information required by § 10.210(b)(11) constituted an invasion of privacy.

FDA has decided not to change § 10.210(b)(11), for the reasons provided in response to the specific comments discussed below in paragraphs 41 through 43.

41. One comment questioned the need to disclose publicly, rather than keep confidential, the information required to be submitted under § 10.210(b)(11).

FDA will make publicly available the information required to be submitted. The agency has decided to do so because it believes that those who affirmatively seek public funds should be willing to allow the public to oversee the expenditure of those funds, thus ensuring the integrity of the program.

42. One comment asked whether FDA was seeking specific information about the financial status of an individual member, employee, director, or officer of an organizational applicant.

The agency is not seeking that type of information, except insofar as the information required to be submitted under § 10.210(b) (1) or (4) might be considered financial information of an individual.

43. Another comment alleged that the financial reporting requirements might result in a loss of privacy regarding the source and use of an applicant's operating funds.

The source of funds will not be divulged because the agency is not requiring disclosure of the names of grantors of, or private contributors to, applicants. FDA must have certain information on the use of an applicant's funds so that the agency may make the requisite determination regarding financial eligibility. However, § 10.210(b)(12)(i) requires submission of information only on significant projects.

44. One comment suggested that § 10.210(b)(12)(iv) be modified. That section provides that applicants who have submitted applications during the preceding 6 months of the applicants' current fiscal year need not file another financial statement, but need only inform the Board of material changes in their financial status when submitting additional applications. The comment requested that the 6-month time frame be changed to the applicants' current fiscal year.

The agency adopts this suggestion.

45. Several comments opposed § 10.210(b)(12), which requires an explanation of why the applicant cannot obtain the requested funds in other ways, on the ground that it is burdensome, or could be embarrassing.

The agency rejects the comment. FDA believes that the information sought is important to the eligibility determination and that compliance with the requirement will not be too onerous. An applicant's submission may be brief, and applicants are not expected, as two comments mistakenly asserted, to explain why particular grantors have not donated funds to applicants or to make a special effort to seek funds during the 25-day period for application.

46. One comment suggested that § 10.210(b)(12) include a provision stating that an applicant would not be rendered ineligible merely because it made a profit.

This comment is rejected. FDA will not include such a provision in the regulation, but agrees in substance and will act in accord with the recommendation (see the discussion relating to "indigency" at 44 FR 23051). Indeed, the agency welcomes applications from small businesses that, despite making a profit, satisfy the eligibility requirements.

47. Some comments on § 10.210(b)(13), which provides for submission of a list of all proceedings of the Federal government in which the applicant has participated during the preceding year, suggested that the list of proceedings be expanded to include proceedings in all three branches, and at all three levels, of government.

FDA rejects this suggestion because it believes that requiring the additional information would be too burdensome. Moreover, information is only required to be submitted for participation in Federal administrative proceedings involving a hearing on the record. However, applicants who believe that submission of information on their participation in other proceedings will assist FDA in assessing their applications are encouraged to submit that information.

48. Other comments on § 10.210(b)(13) generally questioned the relevance of information respecting reimbursement of applicants for participation in other proceedings, and particularly questioned its pertinence before a determination that two or more qualified applicants meet the eligibility criteria of § 10.220(c)(3).

The agency rejects these comments. FDA believes that this information helps to provide a safeguard against reimbursement of "professional" participants and may be useful at any point in the decisionmaking process.

49. One comment on § 10.210(c), which provides for submission within certain prescribed time frames of a copy of the application to the presiding officer, suggested that deadlines be made conspicuous on application forms.

FDA adopts this suggestion.

50. Several comments criticized the requirement of § 10.210(d) that applicants attend the prehearing conference in Part 12 proceedings. Most argued that the requirement would impose unnecessary financial hardship on applicants and discriminate in favor of applicants located in the Washington, DC area.

FDA acknowledges these criticisms, but will retain the requirement. The agency believes that the prehearing conference is the best available forum in which to obtain essential information from applicants in an expeditious manner and that the information derived will enhance considerably the quality of the presiding officer's recommendations on reimbursement. The prehearing conference narrows and clarifies the matters at issue and the contentions of the parties. It outlines the probable course of the hearing and identifies the expected areas of testimony. The specific role that an applicant can usefully play in the proceeding can be identified only on the basis of the development of the case that takes place at the conference. Moreover, the rules governing Part 12 proceedings require that all participants attend the prehearing conference. Furthermore, successful applicants will be reimbursed for the transportation and travel-related costs of attendance. Finally FDA believes that attendance is one measure of applicant commitment.

51. One comment suggested that applicants immediately notify the presiding officer of any changes in the information submitted under the requirements of § 10.210(b)(4).

The agency has basically adopted this suggestion. Section 10.210(d) now requires that where significant changes in any of the information submitted in the application occur after its submission, a supplement to the application be promptly filed with the Hearing Clerk.

52. Three comments generally opposed § 10.215(a), which requires submission to the Board of a recommendation by the presiding officer. One comment said an applicant might be reluctant to challenge the presiding officer during the course of a proceeding because that action might jeopardize future requests for funding. Another comment said that the presiding officer will not be objective, but rather will favor applicants who propose to present the type of testimony he or she wants to hear.

The agency rejects these arguments. The preamble to the proposal adequately justifies this requirement (see 44 FR 23049). Because the presiding officer is required to base the recommendation on specified criteria, consideration of extraneous factors such as an applicant's prior challenge to one of the presiding officer's rulings is precluded. Moreover, the Evaluation Board makes the final decision on all applications and can overrule the recommendation of the presiding officer if it is not based on the proper criteria.

53. One comment recommended that funding be provided only in proceedings where the presiding officer certifies that the proceeding requires funding.

The agency rejects this comment. The recommended procedure would unnecessarily limit those proceedings in which funding would be available and might create delays. The procedure adopted by the agency achieves the desired purpose by including a written recommendation by the presiding officer, which recommendation will carry great weight with the Board.

54. One comment expressed the opinion that § 10.215(b)(2) should require the presiding officer to consider each applicant's financial eligibility.

The agency rejects this comment. The "economic need" criterion was intentionally excluded from the factors the presiding officer is required to consider because its inclusion would require expertise in financial matters that the presiding officer may not have but that the Board will have.

55. One comment suggested that § 10.215(c), which authorizes the presiding officer to obtain documents from applicants, state that that authority be exercised sparingly to minimize delay.

The agency rejects this comment. This authority is an important mechanism for expeditiously obtaining information from applicants. It is anticipated that this procedure will expedite the application process. The authority therefore should not be limited, but rather should be exercised as necessary to determine an applicant's eligibility. The agency has confidence in the ability of its Administrative Law Judge or judges and other presiding officers to exercise wisely the authority provided by § 10.215(c).

56. Several comments found unnecessary § 10.215(d), which allows participants to comment on applications in Part 12, 13, 14, and 16 proceedings. They contended that it "inherently offset the desired equality of the affected parties," that it would unnecessarily delay the processing of applications, and that it is of little value because industry participants will generally seek to disqualify applicants. One comment suggested that rather than commenting on applications for reimbursement, participants should file written statements outlining their role in the proceeding.

FDA rejects these comments. It would be unfair to prohibit comments on applications by self-supported or agency participants whose interests will be affected by the participation of agency-funded applicants. Moreover, the time frame for submission of comments by participants will not delay the processing of applications. Finally, the view points of participants may assist the Board in making decisions on applications.

57. One comment asserted that the presiding officer should not review the comments submitted by participants under § 10.215(d).

The regulation does not provide for such review but rather for review of participants' comments only by the Evaluation Board.

58. Several comments recommended that the participants' right to comment on applications under § 10.215(d) be extended to Part 15 proceedings.

The agency rejects this recommendation for the same reasons that FDA decided initially not to provide for comments in those proceedings (see 44 FR 23049).

59. A few comments asserted that participants should be allowed to comment on communications among the Board (including the Board's decision), the presiding officer (including the presiding officer's recommendation), staff and applicants.

The agency rejects this proposal because such comments would significantly delay the application process. Moreover, the provision made for comments on each application will allow participants an adequate opportunity to express their views to the Board.

60. One comment requested that a copy of each application be served on each existing participant in the proceeding for which funding is sought in order to facilitate comments on that application, and that the time period for filing comments not begin to run until receipt of the application by the participant.

The agency rejects this comment. The rule requires that the Hearing Clerk serve each application within 5 days of its filing on each existing participant. The agency recognizes that the actual time allowed for submission of comments by participants may be less than 15 days because the time period for filing comments runs from the date applications are filed rather than the date they are received by participants. However, the time allotted for participants to comment is nevertheless sufficient. Providing additional time for comment would add unnecessary delay.

61. One comment suggested that § 10.220(c)(4) provide that the Hearing Clerk notify all participants of the Board's approval of applications.

The suggestion is adopted.

62. Although several comments found adequate the 15-calendar-day time period provided by § 10.215(e) for the preparation of an approved applicant's presentation, numerous comments found it inadequate. These comments suggested a time period of 30 to 60 calendar days. One comment recommended that § 10.215(e) be amended to provide that motions for extensions of preparation time be liberally granted and that motions to reduce preparation time be strictly reviewed and denied if vexatious. Another comment suggested that the time for decisions on applications by the Board be reduced in order to provide applicants more preparation time.

The agency rejects these comments. One measure of the success of the demonstration program will be whether reimbursement can be provided without unduly delaying agency proceedings. The proposed 15-calendar-day time period reflects an effort to balance the interests of the agency, participants in proceedings funded by the proposal, and the public in expeditiously completing agency proceedings and the interests of applicants in having sufficient time to

prepare their presentations. The agency believes it has struck the proper balance and that injection of additional time into the reimbursement process may result in unwarranted delay.

FDA, of course, recognizes that the reimbursement program is unlikely to be successful if applicants cannot adequately prepare their presentations. However, agency experience with proceedings similar to those for which reimbursement will be made available suggests that applicants will have enough preparation time. The preamble to the proposal explains the basis for this conclusion (see 44 FR 23050). Moreover, the presiding officer would have authority, on his or her own initiative or on motion of any participant or applicant, to extend the 15-calendar-day time period whenever an applicant needs additional preparation time. The agency believes that this provision is sufficient to allow applicants additional preparation time when necessary.

63. One comment asked whether the 15-calendar-day preparation time period for preparation provided by § 10.215(e) begins to run when the decision is received by the applicant.

The 15-calendar-day time period will begin when the Board's final decision is received by the applicant. Notification of approval will be sent by the Hearing Clerk "return receipt requested" to ensure a record of its receipt and the date thereof.

64. Several comments recommended that the Evaluation Board include members from outside the agency, such as businessmen, scientists, or consumers.

The agency rejects these comments. The agency believes that the Board should be composed solely of agency employees, and § 10.220(a) has been amended to clarify this point. Decisionmaking on behalf of FDA should be carried out by employees of FDA. Moreover, a board composed in part of nonagency employees would be less likely to have knowledge of those proceedings funded by the final rule and be more likely to experience delay in the processing of applications.

65. One comment asked that the operation of the Board be clarified and suggested that all actions on applications be taken by a majority vote of the three Board members, all of whom would be required to vote on each application.

The agency adopts the suggestions.

66. One comment requested that § 10.220(a) be modified to provide for the selection of alternate Board members for each proceeding funded by the rule. These alternates would substitute for regular Board members in the event of a disqualification. The comment also suggested that § 10.220 set forth the procedures for the replacement of disqualified Board members.

The suggestion has been adopted in part in that § 10.220(a) now provides that the Commissioner will select a replacement in the event of disqualification. The agency believes, however, that it is unnecessary to assign alternate Board members for each proceeding. Because members of the Board rarely would be involved in any of the proceedings funded, disqualification will occur infrequently. When that does happen, finding a replacement should not be a difficult task.

67. A number of comments recommended that all communications between or among the Board, the presiding officer, agency employees, and the applicant be in writing, filed with the Hearing Clerk and made available for public inspection within 5 days of their occurrence.

All communications between the Board and each applicant or the presiding officer and between the presiding officer and each applicant are required to be in writing (or transcribed) and filed with the Hearing Clerk under §§ 10.215(c) and 10.220(d). Moreover, the Board is prohibited from communicating ex parte with any agency employees who are involved in the proceeding for which reimbursement is being sought. The recommendation that the Board file with the Hearing Clerk documents reflecting deliberations among Board members or communications between Board members and FDA employees who are not involved in the proceeding for which reimbursement is being sought is rejected. Those communications would reflect the internal decisionmaking process of the Board. The agency believes that it is important to maintain the confidentiality of the Board's internal deliberations in order to encourage free debate and expression of opinion in the decisionmaking process.

The agency has amended §§ 10.215(c) and 10.220(d) to provide that communication between the Board, the presiding officer, and the applicant covered in those sections will be filed with the Hearing Clerk "as soon as practicable."

68. One comment suggested that the Board be required to consult with Bureau trial staff in order that applicants not duplicate positions already taken by the Bureau.

This suggestion is unnecessary. Although the Board is prohibited from communicating ex parte with agency employees who are involved in a proceeding for which reimbursement is sought, Bureau participants, like other self-supported participants, are permitted to comment on applications for reimbursement and their comments would be filed with FDA's Hearing Clerk. This procedure should ensure that applicants will not duplicate the presentation of one of the agency's Bureaus.

69. Two comments requested that a procedure be established for appealing a Board decision. One stated that such appeals should be limited to cases where two or more applicants represent the same interest and one of these applicants is denied reimbursement.

The agency rejects these comments. The proposed procedure already provides for a preliminary review by the presiding officer who first makes a recommendation to the Evaluation Board, and that recommendation is then reviewed by the Board. Establishing an additional level of administrative review for even a limited category of applications could substantially delay the processing of applications.

70. One comment requested that § 10.220(c) be amended to provide that the Board's final response to each applicant be furnished within 15 days after all participants' comments are due, rather than 15 days after receipt of the presiding officer's recommendation. The comment expressed concern that in those situations where the presiding officer issues a recommendation to the Board within a few days of the filing of an application, and a participant's comments are not submitted until 15 days after the filing of the application, the Board would have only a few days to consider those comments before issuing its final decision.

The agency rejects this comment. In general, the preparation of comments by participants should not take longer than the preparation of a recommendation by the presiding officer. Comments generally will be reviewed by the Board on an expedited basis as received to avoid delay. Thus, participants' comments should be clear, concise, and suitable for review in a short period of time.

71. One comment expressed the opinion that § 10.220(c)(3)(i) was inconsistent with the Comptroller General's ruling that an applicant's participation be "necessary" for an agency to fund that participation. Another comment suggested that the standard for § 10.220(c)(3)(i) should be "but for participation [of the applicant] a full and fair determination of all issues will not be possible."

The agency rejects these comments. The standard set forth in § 10.220(c)(3)(i)

was specifically approved by the Comptroller General:

> While our decision to NRC did refer to participation being 'essential,' we did not intend to imply that participation must be absolutely indispensable * * * [I]t would be sufficient if an agency determines that a particular expenditure for participation 'can reasonably be expected to contribute substantially to a full and fair determination of the issues before it, even though the expenditure may not be 'essential' in the sense that the issues cannot be decided at all without such participation. [Decision B–139703, Dec. 3, 1976, p. 5.]

72. One comment inquired whether more than one application could be approved by the Board for any one proceeding.

The Board may approve two or more applications per proceeding provided, of our course, that those applications meet the eligibility criteria.

73. Two comments expressed the opinion that proposed § 10.220(c)(3) (i) and (ii) did not clearly state that an applicant may not represent an interest that is already adequately represented by another participant in the proceeding for which reimbursement is being sought.

The agency agrees and has amended § 10.220(c)(3) (i) and (ii) to clarify this requirement. It should be noted, however, that two applicants may be funded to represent the same interest so long as that interest is not already represented by a Bureau participant or any other self-supported participant in the proceeding for which reimbursement is being sought. For a further discussion of the latter issue, see paragraph 78 below.

74. One comment recommended that § 10.220(c)(3)(ii) allow an applicant to obtain funding where it seeks to represent, with more vigor, a point of view that an agency participant already represents.

To the extent that an applicant proposes to represent precisely the same position as a Bureau participant, with identical or similar evidence, but claims to represent that position with more vigor than the Bureau, that applicant would not be funded. This conclusion is mandated by the Comptroller General's rulings and the House-Senate Conference Committee Report on FDA's 1979 appropriations bill (see 44 FR 23045–23047).

75. One comment expressed the opinion that § 10.220(c)(3)(iv) should be amended to avoid the implication that the ability of an applicant to partially fund itself is a criterion of eligibility. The comment stated that an applicant who can bear some of the expenses should not be favored or disfavored.

The agency adopts the suggestion. Section 10.220(c)(3) has been amended to provide that an applicant's ability to bear some of the financial burden will be considered (with respect to the amount of reimbursement) only after the Board reaches a final decision on the applicant's eligibility.

76. One comment suggested that the principle stated in the preamble to the proposed regulation (44 FR 23051)—that an applicant may have sufficient resources to participate in some proceedings, but still need funding for a particular proceeding—be incorporated in § 10.220(c)(3)(iv).

The agency rejects this suggestion, but does intend to rely upon the principle in applying the criterion. It is therefore unnecessary to include this provision in the regulation.

77. One comment asserted that the "indigency" standard set forth in § 10.220(c)(3)(iv) is inconsistent with the Comptroller General's rulings in that it provides that an applicant would be eligible if it does "not have available, and cannot reasonably obtain in other ways, sufficient resources to participate effectively in the proceeding." The comment objected to the use of the term "available" in § 10.220(c)(3)(iv) because it would be abused by applicants.

The agency rejects this comment. The Comptroller General held that it is appropriate to compensate those, in addition to the literally indigent, who are otherwise unable to afford participation. Decision B–139703, December 3, 1976, p. 6. This standard would include those who have sufficient resources to pay the expenses of carrying on their ordinary activities, but not the exceptional costs of participating in a particular FDA proceeding. The information requested of applicants is sufficient to enable FDA to detect abuse by applicants.

78. Several comments expressed the opinion that § 10.220(e) should not permit approval of two or more applications where the applicants represent the same interest.

FDA rejects this comment. The agency is aware that the approval of multiple applications representing the same interest could result in an unwarranted duplication of effort. The agency does not intend to fund the presentation of the same view twice. Provision is made for funding two or more applicants who represent the same interest so that the agency may have applicants consolidate their presentations.

79. A few comments requested deletion of the criterion in § 10.220(g)(1) that provides that the Board may consider whether an applicant's position can be reasonably developed and presented within the time allotted. One of these comments suggested in the alternative that the presiding officer's consideration of § 10.220(g)(1) be made expressly subject to the power of the presiding officer to extend preparation time under § 10.215(e).

The agency rejects these comments. The presiding officer and the Board should be allowed to consider whether the importance of the applicant's contribution outweighs the resulting delay in the proceeding. In those situations where an applicant's presentation is sufficiently important to justify a delay in the proceedings, the presiding officer has the authority under § 10.215(e) to allow the applicant additional preparation time. It is therefore unnecessary to reiterate this authority in § 10.215(b)(4).

80. One comment found inappropriate the requirement in § 10.220(g)(3) that the Board consider applications for reimbursement submitted in other agency proceedings.

The agency rejects this comment. This information will be useful to determine whether an applicant is receiving a disproportionate share of Federal reimbursement funds compared with other equally deserving applicants.

81. Several comments suggested that applicants not receive reimbursement under § 10.250(a) for the services of their staff. Other comments stated that reimbursement for the services of an applicant's staff should not be limited to the salary paid to the staff by the applicant, but rather should be the same as the rate of reimbursement for persons who are not employees of an applicant.

The agency rejects these comments. Refusing to allow an applicant any reimbursement for staff services would be unfair because it might preclude participation by those applicants who intend to rely primarily on the services of their staff for participating in the program. A ruling of the Comptroller General limits the rate of reimbursement for "in-house" services to the costs actually incurred by the applicant, for example, the salary normally paid an employee by the applicant, even if the employee rate of pay is lower than prevailing rates or the maximum rates payable under the reimbursement program to persons not employed by an applicant (see Decision B–139703, July 31, 1978).

82. Several comments asserted that applicants should be reimbursed for fringe benefits and overhead costs. A few comments stated that costs such as overhead costs should not be reimbursed because they represent the normal costs of running any organization.

The agency has decided not to reimburse applicants for fringe benefits and overhead costs. Although this limitation may result in each applicant receiving less reimbursement, it should enable the agency to fund more applicants. Thus, § 10.250(b)(2) has been amended to eliminate the reference to "fringe benefits and overhead" in describing the ceiling on reimbursable costs.

83. One comment stated that § 10.250, which requires applicants to use the services of their staff when such services are avialable, should clearly state that staff personnel are not available if participation in the proceeding would preclude them from pursuing their normal and necessary work for the applicant. Another comment stated that this requirement is unworkably vague and an unnecessary curb on an applicant's discretion.

The agency rejects these comments. The normal and necessary work of an applicant's staff may include participating in agency proceedings. Applicant's should be encouraged to utilize their staff in order to reduce the costs of participation, thus allowing more applicants to receive reimbursement under this limited pilot program. If an applicant believes it is unable to utilize part or all of its staff, it is reasonable to require an explanation of why those staff members are unavailable. The agency does not believe that these requirements are unworkable. The regulation has, however, been amended in an effort to clarify these requirements.

84. One comment recommended that in those situations where an applicant represents a number of organizations, those organizations should be required to submit financial statements only if the funds requested exceed a certain amount.

The agency rejects this suggestion. In order to determine whether such an applicant meets the financial eligibility requirements established by the Comptroller General and incorporated in this rule, complete financial statements would be required from all organizations represented by the applicant.

85. One comment requested clarification on certain matters relating to reimbursement. The comment inquired: "(a) How much of a financial burden would an applicant be required to bear in connection with a proceeding? (b) What would be the ceiling amount authorized? How close would the ceiling be to the actual expenses incurred and submitted for reimbursement? [and] (c) How long before a proceeding would the Board notify the applicant of the maximum amount authorized?"

(a) Applicants would be expected to bear a portion of the financial burden whenever possible. This amount will not be a fixed percentage, but rather will vary depending on the applicant's ability to support itself.

(b) The award document would specify the total amount of funds that will be provided as reimbursement. The amount of reimbursement would vary depending on the nature of the proposal. There is a ceiling on the rate of reimbursement. It generally would not exceed the rate of compensation paid by the agency to its own employees, expert witnesses, consultants and other personnel possessing comparable experience and expertise. Reimbursement for staff services paid by participating groups and organizations would be limited to rates of reimbursement normally paid by the organization and, also, would not exceed rates paid to comparable FDA employees. Applicants would not be reimbursed for expenses incurred in excess of these rates of reimbursement. Moreover, applicants would be reimbursed only for expenses actually incurred.

(c) Applicants would be notified of the Board's final decision to award reimbursement no later than fifteen calendar days before the commencement of a proceeding (see § 10.215(e)).

86. Although a number of comments stated that the maximum allowable rates of reimbursement are adequate, several comments stated that the ceiling on the rate of reimbursement is unrealistic and that it should be set at prevailing market rates or that provision should be made for more liberal granting of exemptions from the ceiling.

The agency rejects the comments seeking a higher ceiling on the rates of reimbursement. As previously noted, the Comptroller General requires that "in-house staff" be paid their normal rate of compensation, and the agency believes this rate is adequate. The ceiling on rates for outside personnel, that is, the rates paid by FDA for comparable services, should be sufficient to obtain qualified personnel.

87. A number of comments requested that the regulation provide for the making of payments in advance of an applicant's performance of the work.

The agency rejects these comments. The Comptroller General considers impermissible an agency's making of advance payments under a reimbursement program (see Decision B-139703, Sept. 22, 1976, p. 4).

88. One comment requested that § 10.250 provide for the reimbursement of the cost of preparing an application for reimbursement.

The agency rejects this comment. The agency believes that the cost of preparing an application will not discourage applicants from seeking reimbursement.

89. One comment opposed § 10.250(c), which makes provisions for exceptions to the normal ceiling on rates of reimbursement where the applicant's participation in the proceeding would be exceptionally important and the applicant otherwise meets the criteria of § 10.220(c)(3). The comment asserted that the agency should be able to procure internally the type of presentation sought from an applicant qualifying for this exception.

The agency rejects the comment. If a participating agency Bureau will make the same presentation as an applicant, that applicant will not be funded. This exception applies in the rare situation where an applicant will make an important contribution to a proceeding that other participants cannot, or will not, make but needs funding in excess of the normal ceiling to do so.

90. Several comments expressed the opinion that proposed § 10.275(a)(3), which required as a condition of obtaining supplementary reimbursement that an applicant have substantially underestimated the probable cost of participation, should be deleted because it is counterproductive in that it would encourage large cost overruns.

The agency adopts the suggestion.

91. Several comments objected to § 10.275(b), which prohibits the payment of supplementary reimbursement for work completed or costs incurred in advance of the Board's approval. The comment stated that this prohibition might force an applicant to cease participation in a proceeding due to lack of funds.

The agency rejects this comment because it believes that applicants should not be encouraged to expend funds in reliance upon receiving supplementary reimbursement. Moreover, the supplementary reimbursement process should operate expeditiously because it would not involve a recommendation by the presiding officer or comments by participants (although the Board could seek a recommendation from the presiding officer, with or without comments from participants). Furthermore, the presiding officer has authority to provide participants additional time to prepare their presentations.

92. One comment opposed supplementary reimbursement except in situations where the Board requests additional services.

The agency rejects this comment. Unforeseeable circumstances may necessitate supplementary reimbursement, and the Board may not be aware of these circumstances. In those situations, it is appropriate to allow applicants to seek supplementary reimbursement rather than cease participation and thereby fail to complete a presentation for which the agency may have already awarded substantial funds.

93. One comment suggested that the presiding officer make a recommendation and participants comment on applications for supplementary reimbursement.

The agency rejects this suggestion, since its adoption would entail significant delay. Such recommendation and comments may, however, be sought by the Board on its own motion.

94. One comment recommended that provision be made for funding work on issues that arise during the course of a hearing.

The establishment of a separate mechanism for this purpose is unnecessary. Should a new issue arise during the course of a hearing, supplementary reimbursement could be sought under § 10.275.

95. Several comments supported the requirement in § 10.280(a) that payment to applicants be made within 30 days. One of these comments inquired whether there is a regular procedure for handling complaints concerning late payments.

Although the agency does not expect such problems to arise, should an applicant fail to receive payment within the required time, the Office of Consumer Affairs should be notified as soon as possible.

96. One comment suggested that repayment by applicants of payments received under § 10.280(c) include interest on the amount repaid at prevailing interest rates established by the Treasury Department.

The agency has essentially adopted this suggestion in that repayments made under § 10.280(c) now include interest on the amount repaid at the rate of 8 percent per annum.

97. One comment stated that the reference in § 10.280(c)(4) to § 12.45(g) should be to § 12.45(e) due to a recent amendment to the procedural regulations.

The agency adopts the comment.

98. One comment suggested that § 10.290(c) require applicants to adhere to generally recognized accounting standards in keeping records of their expenses.

The agency believes that the suggested change is unnecessary because § 10.290(c) as written requires adherence to acceptable accounting procedures. Of course, applicants will not be required to hire a professional accountant. Applicants will, however, be expected to maintain records of all expenditures sufficient to justify claims for payment and to reconcile receipt of reimbursement award funds with expenditures.

99. One comment suggested that § 10.290(c) provide for mandatory audit by a representative of the grantor or an independent accounting firm. The comment further stated that failure to meet the mandatory audit requirement should bar the group from receiving additional grants for a substantial period of time.

The regulation does provide for audit by FDA's Office of Mangement and Operations, the General Accounting Office, and the Office of Inspector General, Department of Health, Education, and Welfare, or their designees. The agency believes that provision for audit by an independent accounting firm is unnecessary. Moreover, requiring an audit of every applicant would unnecessarily increase the administrative costs of the program. An applicant's failure to permit an audit would result in the denial of that applicant's claim for payment and/or a requirement for repayment of payments already received by the applicant. FDA considers it highly unlikely that an applicant who has refused an audit would obtain, or even seek, funding thereafter. Consequently, a provision providing for that contingency is unnecessary.

After consideration of all comments on the advance notice of proposed rulemaking and on the notice of proposed rulemaking, the agency has decided to publish a final rule in the **Federal Register** establishing this pilot reimbursement program.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 201 et seq., 52 Stat. 1040 as amended (21 U.S.C. 321 et seq.)); the Public Health Service Act (sec. 1 et seq., 58 Stat. 682 as amended (42 U.S.C. 201 et seq.)); the Comprehensive Drug Abuse Prevention and Control Act of 1970 (sec. 4, 84 Stat. 1241 (42 U.S.C. 257a)); the Control Substances Act (sec. 301 et seq., 84 Stat. 1253 (21 U.S.C. 821 et seq.)); the Federal Meat Inspection Act (sec. 409(b), 81 Stat. 600 (21 U.S.C. 679(b)); the Poultry Products Inspection Act (sec. 24(b), 82 Stat. 807 (21 U.S.C. 467f(b)); the Egg Products Inspection Act (sec. 2 et seq., 84 Stat. 1620 (21 U.S.C. 1031 et seq.)); the Federal Import Milk Act (secs. 1 through 9, 44 Stat. 1101–1103 as amended (21 U.S.C. 141–149)); the Tea Transportation Act (secs. 1 through 10, 29 Stat. 604–607 as amended (21 U.S.C. 41–50)); the Federal Caustic Poison Act (sec. 2 et seq., 44 Stat. 1406 as amended (15 U.S.C. 401 et seq.)); the Fair Packaging and Labeling Act (sec. 1 et seq., 80 Stat. 1296 as amended (15 U.S.C. 1451 et seq.)); the Agricultural, Rural Development, and Related Agencies Bill (Pub. L. 95–448, 92 Stat. 1073, 1091), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Subchapter A of Title 21 of the Code of Federal Regulations is amended as follows:

PART 10—ADMINISTRATIVE PRACTICES AND PROCEDURES

1. By adding new Subpart C to read as follows:

Subpart C—Reimbursement for Participation in Administrative Proceedings

Sec.

Authority: Sec. 201 et seq., Pub. L. 717, 52 Stat. 1040 as amended (21 U.S.C. 321 et seq.); sec. 1 et seq., Pub. L. 410, 58 Stat. 682 as amended (42 U.S.C. 201 et seq.); sec. 4, Pub. L. 91–513, 84 Stat. 1241 (42 U.S.C. 257a); sec. 301 et seq., Pub. L. 91–513, 84 Stat. 1253 (21 U.S.C. 821 et seq.); sec 409(b), Pub. L. 242, 81 Stat. 600 (21 U.S.C. 679 (b)); sec. 24(b), Pub. L. 85–172, 82 Stat. 807 (21 U.S.C. 467f(b)); sec. 2 et seq., Pub. L. 91–597, 84 Stat. 1620 (21 U.S.C. 1031 et seq.); secs. 1 through 9, Pub. L. 625, 44 Stat. 1101–1103 as amended (21 U.S.C. 141–149); secs. 1 through 10, Chapter 358, 29 Stat. 604–607 as amended (21 U.S.C. 41–50); sec. 2 et seq., Pub. L. 783, 44 Stat. 1406 as amended (15 U.S.C. 401 et seq.); sec. 1 et seq., Pub. L. 89–755, 80 Stat. 1296 as amended (15 U.S.C. 1451 et seq.); the Agriculture, Rural Development, and Related Agencies Bill (Pub. L. 95–448, 92 Stat. 1073, 1091); and 21 CFR 5.1.

Subpart C—Reimbursement for Participation in Administrative Proceedings

§ 10.200 General.

This subpart establishes criteria and procedures for an Evaluation Board, as described in § 10.220(a), to authorize payment from agency funds of reimbursement for reasonable attorneys' fees, expert witness fees, the expenses of clerical services, travel, studies, demonstrations, and other reasonable and necessary costs of participation

incurred by a participant (whether or not a party) in an agency proceeding conducted under Part 12, 13, 14, 15, or 16 that results in a hearing, if such participation satisfies the requirements of § 10.220(c)(3).

§ 10.210 Application procedure.

(a)(1) An applicant shall apply for reimbursement within 25 calendar days after the date of publication in the **Federal Register** of the notice of hearing under § 12.35, § 13.5, § 14.20 or § 15.20, or within 25 calendar days after the date on which the Food and Drug Administration sends the notice of opportunity for hearing issued under § 16.22 or § 16.24, except in extraordinary circumstances, e.g., when the hearing is being held by order of a court. The notice of hearing or the notice of opportunity for hearing shall include notification of the availability of reimbursement. In extraordinary circumstances, the Evaluation Board may establish an expedited procedure for submission and review of applications by notice published in the **Federal Register.** Although applications will be accepted after the periods specified in this section or established by the Evaluation Board, no assurance is given that they will receive the same consideration as timely submitted applications.

(2) An applicant shall submit four copies of the application to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Department of Health, Education, and Welfare, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, under § 10.20. The outside envelope of each application shall include the statement "Application for Reimbursement" and the docket number of the proceeding in which the applicant desires to apply for reimbursement.

(3) The Hearing Clerk shall serve a copy of each application filed under this paragraph on each existing participant in the proceeding for which reimbursement is being sought within 5 calendar days of the filing of each application.

(b) Each application shall contain in the form of a sworn statement the following information, in the following order:

(1) The applicant's name and address, and in the case of an organization the names, addresses, and titles of the members of its governing body, and a description of the organization's general purposes, structure, and tax status. Where an applicant, and in the case of an organization a member of its governing body or an employee, has been or is affiliated with FDA or with any person who has produced or produces a product subject to FDA regulation, a statement identifying those so affiliated and the nature of the affiliation.

(2) An identification of the proceeding for which the applicant desires reimbursement in order to participate.

(3) A description of how the proceeding will affect the applicant economically, socially with respect to health or safety, or otherwise and an explanation of why the applicant would be an appropriate representative of other persons similarly affected.

(4) A description of any past, present or contemplated contracting, consulting, financial, or other income-producing relationship of the applicant with any person or organization having an economic interest in the outcome of the proceeding for which reimbursement is sought.

(5) A description and explanation of the issues in the proceeding that the applicant proposes to address and how they will be addressed, including a description of the evidence, studies, viewpoints, methodologies, and information to be developed or used in supporting the applicant's position in the proceeding. This discussion should explain why the applicant believes the ideas or viewpoints it proposes to present are novel or significant or will enhance the agency's decisionmaking process, and why that participation by the applicant in the proceeding would contribute to a full and fair determination of the issues involved in the proceeding.

(6) A discussion of the reasons why the applicant is competent to participate in the proceeding, including the expertise and experience of the applicant, and any consultants it intends to employ, in the matters involved in the proceeding, and evidence of the applicant's prior performance generally.

(7) An explanation of how the applicant represents an interest not adequately represented by another participant.

(8) An estimate of the time necessary to develop and present the applicant's presentation.

(9) An estimate of the total amount of reimbursement needed.

(10) An itemized statement of the expenses to be covered by the total amount of reimbursement requested and of the expenses to be covered by funds available to the applicant from other sources. For each task for which reimbursement is requested, the statement shall clearly state the identity of the persons who will perform the task and their hourly rates of pay; an estimate of the total cost of the task; an estimate of the total hours required to perform the task; a description of the evidence, activities, studies, or other contributions to the proceeding that will be generated by the task; and where the applicant has staff personnel who will not be used to perform the task, an explanation of why those personnel cannot be so used.

(11) An explanation of why the applicant would be prevented from participating effectively in the proceeding without the reimbursement requested in the application.

(12) An explanation of why the applicant cannot use funds that it already possesses or expects to receive for the purpose for which reimbursement is requested, including:

(i) A complete financial statement containing a listing of the applicant's anticipated income and expenditures, rounded to the nearest $100, for the then current fiscal year including, in the case of a group, association, partnership, or corporation, a list of each planned project to which the organization will devote 10 percent or more of its resources and the amounts to be expended on each.

(ii) A complete financial statement containing a listing of the applicant's income and expenditures, rounded to the nearest $100, for the prior fiscal year.

(iii) A listing of the total assets and liabilities of the applicant as of the date of application.

(iv) Where an applicant has previously submitted an application for reimbursement under this program during the applicant's current fiscal year, the applicant need only resubmit the previously submitted financial data and inform the Board of any material changes in that financial data.

(13) An explanation of why the applicant cannot in other ways obtain all or a portion of the reimbursement that is requested, including a description of any other efforts by the applicant to obtain those funds in other ways and the feasibility of future attempts to raise funds in other ways.

(14) A list of all Federal administrative proceedings involving a hearing on the record in which the applicant has participated during the past year, including the ideas or viewpoints expressed and the contribution made by the applicant to the proceedings and any amount of reimbursement received from the Federal government in connection with those proceedings.

(c) Each applicant who seeks reimbursement for participation in a Part 12 proceeding shall attend the prehearing conference conducted under § 12.91. The presiding officer shall schedule the prehearing conference as

soon as practicable after applications are due to be filed. The extent to which applicants will be reimbursed for attending the prehearing conference is set forth in § 10.250.

(d) Whenever there is a significant change in any of the information submitted in the application under paragraph (b) of this section subsequent to its submission, the applicant shall promptly submit to the Hearing Clerk a supplement to its application containing an explanation of that change.

§ 10.215 Processing of applications by the presiding officer.

(a) Within 15 calendar days after receipt of an application under § 10.210(a) in Part 13, 14, 15, or 16 proceedings, or, within 7 calendar days after the first day of the prehearing conference conducted under § 12.91 in Part 12 proceedings, or, if additional time is necessary to obtain information or documentation under paragraph (c) of this section, within the period the presiding officer prescribes, the presiding officer shall submit to the Evaluation Board a written recommendation and copies of all communications and documentation submitted under paragraph (c) of this section. The presiding officer's recommendation shall state whether the application meets the criteria set forth in § 10.220(c)(3)(i) through (iii). A copy of the presiding officer's recommendation shall be filed with the Hearing Clerk.

(b) In making a recommendation under paragraph (a) of this section, the presiding officer shall (1) consider all communications and documentation submitted under paragraph (c) of this section that relate to the criteria set forth in § 10.220(c)(3)(i) through (iii); (2) consider and discuss whether the application meets the criteria set forth in § 10.220(c)(3)(i) through (iii); (3) when two or more applicants who seek to represent the same or similar interests submit applications satisfying the criteria set forth in § 10.220(c)(3)(i) through (iii), consider and compare the skills and experience of the applicants and evaluate the contents of their proposals in light of the criteria set forth in § 10.220(f); and (4) if applicable, consider the criterion set forth in § 10.220(g)(1).

(c) In connection with the presiding officer's responsibility to make a recommendation, the presiding officer may communicate with the applicant or require the production of the documentation the presiding officer finds necessary. All of these communications shall be in writing or made a part of the official transcript of the proceeding for which reimbursement is being sought. All of these communications and documentation also shall be filed with the Hearing Clerk as soon as practicable.

(d) Each self-supported or agency participant may submit written comments on an application to the Hearing Clerk under § 10.20 within 15 calendar days after the application has been filed with the Hearing Clerk under § 10.210(a) in Part 13, 14, or 16 proceedings, or, in Part 12 proceedings, within 7 calendar days after the first day of the prehearing conference conducted under § 12.91, or within such other time as the presiding officer prescribes. All of these comments shall be reviewed by the Evaluation Board.

(e) The presiding officer shall not begin a hearing in a Part 13, 14, 15, or 16 proceeding for which an application for reimbursement has been filed, or begin the taking of direct testimony under § 12.87, in a Part 12 proceeding for which an application for reimbursement has been filed, until 15 calendar days after all approved applicants have received a final decision from the Evaluation Board. This 15-calendar-day time period may be extended if the presiding officer on his or her own initiative or on motion of any participant or applicant finds that an approved applicant needs additional time to prepare its presentation; or may be reduced if the presiding officer on his or her own initiative or on motion of any participant or applicant finds that less than 15 calendar days would provide all approved applicants with adequate time to prepare their presentations.

§ 10.220 Processing of applications by the evaluation board.

(a) Applications shall be processed by an Evaluation Board composed of the Special Assistant for Consumer Affairs, or his or her representative, who will serve as chairman of the Evaluation Board, the Associate Commissioner for Management and Operations, or his or her representative, and a third agency employee to be appointed by the Commissioner. Whenever a member of the Evaluation Board is participating in a Part 12, 13, 14, 15, or 16 proceeding, he or she shall be disqualified from reviewing or ruling upon applications for reimbursement filed in connection with that proceeding. In the event of such a disqualification, the disqualified Board member shall be replaced by an agency employee to be appointed by the Commissioner.

(b) Each member of the Evaluation Board shall, in accordance with paragraph (c) of this section, review and rule upon every application submitted under § 10.210(a). Any action taken by the Board on an application shall be by a majority vote. In reviewing and ruling upon an application under this paragraph the Board shall (1) consider the criteria set forth in paragraph (c)(3) of this seciton; (2) if two or more applicants seek to represent the same interest or substantially similar interests, consider and compare the skills and experience of the applicants and the contents of the applicants' proposal in light of the criteria set forth in paragraph (f) of this section; (3) if applicable, consider all applications that satisfy the criteria set forth in paragraph (c)(3) of this section in light of the criteria set forth in paragraph (g) of this section; and (4) consider the recommendation of the presiding officer, comments, and any other communications or documentation submitted under § 10.215(a) and (d).

(c) The Evaluation Board shall furnish a written response to each application submitted under § 10.210(a) within 15 calendar days after receipt of the presiding officer's recommendation submitted under § 10.215(a), or, in extraordinary circumstances, within the period the Board prescribes. The response shall be filed with the Hearing Clerk and shall:

(1) Provide a tentative response, stating why the agency has been unable to reach a decision on the merits of the application, e.g., due to the existence of other agency priorities, a need for additional information, or other stated reason. The tentative response also may indicate the likely ultimate agency response and may specify when a final response will be furnished; or

(2) Deny the application and state the reasons in light of the criteria in paragraph (c)(3), (f), or (g) of this section. This response shall constitute final agency action; or

(3) Approve the application, in whole or in part, stating the reasons in light of the criteria in this paragraph. This response shall constitute final agency action. The award shall be processed by the appropriate office of the Associate Commissioner for Management and Operations. The Evaluation Board may approve an application, in whole or in part, only if it finds that:

(i) The applicant represents an interest the representation of which contributes or can reasonably be expected to contribute substantially to a full and fair determination of the issues involved in the proceeding, taking into consideration the number, complexity, and potential significance of the issues presented, the importance of public participation, the need for representation of a variety of interests, and the specificity, novelty, significance,

and complexity of the ideas or viewpoints advanced by the applicant.

(ii) The applicant represents a significant interest that is not adequately represented by another participant.

(iii) It is probable that the applicant can competently represent the interest it advocates.

(iv) The applicant does not have available, and cannot reasonably obtain in other ways, sufficient resources to participate effectively in the proceeding in the absence of the reimbursement sought. In determining whether an applicant would be able to participate effectively without reimbursement, the Evaluation Board shall examine the applicant's proposed expenditures for its representation in the proceeding, decide whether these proposed expenditures are reasonable, and compare them to the applicant's income and expenditures, including anticipated future income and expenditures, for the then current fiscal year. After a finding is made that an applicant lacks sufficient resources to participate effectively, the Evaluation Board shall take into account the ability of an applicant to bear some of the financial burden incurred by such applicant in connection with the proceeding in question.

(4) If the Evaluation Board's final response to an applicant is not issued within 15 calendar days after receipt of the presiding officer's recommendation, the Evaluation Board shall promptly notify the presiding officer when a final response will be issued.

(d) The Evaluation Board may communicate with an applicant or the presiding officer. All of these communications shall be in writing, or, if oral, reduced to writing, and, as soon as practicable, copies of the communications shall be filed with the Hearing Clerk.

(e) When two or more applicants who seek to represent the same interest or substantially similar interests submit applications satisfying the criteria set forth in paragraph (c)(3) of this section, the Evaluation Board may approve, in whole or in part, one or more such applications.

(f) In selecting among any applicants specified in paragraph (e) of this section, the Evaluation Board shall consider and compare the skills and experience of the applicants and the contents of their applications. In particular, the Evaluation Board shall consider and compare:

(1) The applicants' experience and expertise in the matter that is the subject of the proceeding;

(2) The applicants' prior performance and competence generally;

(3) The applicants' relations to any particular persons whose views they seek to represent; and

(4) The specificity, novelty, significance and complexity of the ideas or viewpoints the applicants propose to develop and present.

(g) The Evaluation Board may, but is not required to, select any of the applicants that satisfy the criteria of paragraph (c)(3) of this section. In making this decision, the Evaluation Board shall consider:

(1) Whether an applicants' presentation can be reasonably developed and presented within the time allotted;

(2) The current availability of funding for reimbursement under this subpart;

(3) Applications for reimbursement submitted in other agency proceedings; and

(4) Any other relevant information.

(h) As soon as practicable after approval of an application by the Board, the Hearing Clerk shall notify all existing participants of that approval.

(i) The Hearing Clerk shall maintain a chronological file of all applications for reimbursement filed under this subpart, which shall include:

(1) A copy of each application;

(2) Copies of all material filed under § 10.215 (a) and (d);

(3) Copies of all responses filed under paragraph (c) of this section; and

(4) Copies of all communications filed under paragraph (d) of this section.

§ 10.250 Recoverable costs.

(a) The following costs and services are reimbursable under this subpart (except as limited under paragraph (b) of this section):

(1) Salaries or other remuneration for services performed by participants or their employees, excluding overhead and fringe benefits;

(2) Fees for consultants, expert witnesses, contractual services, and attorneys, excluding overhead and fringe benefits;

(3) Transportation costs, including, for approved applicants, costs of transportation to and from the prehearing conference conducted under § 12.91 in Part 12 proceedings;

(4) Travel-related costs in furtherance of participation in the proceeding, such as lodging, meals, and telephone calls related to the proceeding, including, for approved applicants, travel costs related to attendance at the prehearing conference conducted under § 12.91 in Part 12 proceedings;

(5) Costs of studies or demonstrations;

(6) All other necessary costs reasonably incurred.

(b)(1) Reimbursement is limited to necessary services and costs of participation that have been authorized and reasonably incurred. An applicant is required to utilize its staff to perform work for which reimbursement is sought whenever an applicant's staff is available and qualified to perform the work. Reimbursement for the services of the staff of any participating group or organization is limited to the rate of reimbursement normally paid by the applicant for staff services.

(2) Reimbursement for all costs and services listed under paragraph (a) of this section shall not, however, exceed the rate of compensation routinely paid to Food and Drug Administration attorneys, expert witnesses, consultants, or other personnel possessing comparable experience and expertise who are employed or retained by the Food and Drug Administration.

(c) The Evaluation Board may waive the reimbursement limitation set forth in paragraph (b)(2) of this section if it finds that the applicant's participation in the proceeding would be exceptionally important and the applicant otherwise meets the criteria of § 10.220(c)(3) but does not have available, and cannot reasonably obtain in other ways, sufficient resources to participate effectively in the proceeding in the absence of reimbursement in excess of the limitation set forth in paragraph (b)(2) of this section. Such waivers will be granted only in extremely rare cases.

§ 10.275 Supplementary reimbursement.

(a) Applicants may apply to the Evaluation Board for supplementary reimbursement if the initial award is insufficient to permit the applicant to complete its presentation and if:

(1) The Board or the presiding officer requested the applicant to perform work in addition to that contained in the approved application; or

(2) The applicant demonstrates that it has been subject to an unforeseeable and material change in its circumstances.

(b) Supplementary reimbursement shall not be provided for work performed or costs incurred by an applicant or its contractors in advance of the Board's decision to provide supplementary reimbursement.

(c) The Board shall provide supplementary reimbursement under the criteria of § 10.220 (c)(3) and (g)(2) and paragraphs (a) and (b) of this section.

§ 10.280 Payments.

(a) An applicant shall submit a claim for reimbursement to the Office of

Management and Operations (HFA-120), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Maryland, 20857; within 90 days of the applicant's completion of participation in the proceeding. These claims shall include bills, receipts, or other proof of costs incurred. Any payments authorized under this subpart shall be made by the Office of Management and Operations within 30 calendar days after the date on which the applicant submits a completed claim for reimbursement.

(b) If an applicant whose application has been approved in whole or in part under § 10.220(c)(3) establishes in writing that its ability to participate in the proceeding will be impaired by the failure to receive funds before the conclusion of such proceeding, the Evaluation Board may authorize payments on a periodic basis during the proceeding to enable the applicant to participate in the proceeding. These payments would be for expenses already incurred in connection with contributions already made to the agency proceeding.

(c) Claims for payment under this subpart shall be denied, and applicants receiving payments under paragraph (a) of this section or periodic payments under paragraph (b) of this section shall be liable for repayment of part or all of the payments or periodic payments received plus interest at the rate or 8 percent per annum, if the Evaluation Board determines that:

(1) The applicant clearly has not provided the representation for which these payments or periodic payments were claimed or made; or

(2) The applicant has failed to maintain the records required by § 10.290 (a) or (b) or has failed to permit the audit provided for in § 10.290(c); or

(3) The applicant has failed to justify adequately the lack of reconciliation between the receipt of or request for reimbursement award funds and expenditures, as disclosed by an audit under § 10.290; or

(4) The applicant has acted in a manner demonstrating bad faith toward any other participant or toward the presiding officer, or the applicant has had its participation stricken under § 12.45(e) of this chapter.

§ 10.290 Records.

(a) Applicants awarded reimbursement shall maintain complete and accurate records relating to the expenditure of funds for which reimbursement was awarded, the receipt and disposition of reimbursement funds, and the expenditure of the applicant's contributed share of the cost of participation, if any.

(b) These records shall include all accounting records and related original and reporting documents that substantiate costs incurred in participation; and shall be retained for 3 years after the date on which payment by the agency is made.

(c) These records are subject to audit by the FDA Office of Management and Operations, the General Accounting Office, and the Office of Inspector General, Department of Health, Education, and Welfare or their designees. If an audit discloses that the request for or receipt of reimbursement award funds cannot be reconciled with expenditures, the Evaluation Board may prepare a proposal for repaymentof payments made or for denial of payments claimed, in whole or in part, and shall send a copy of the audit findings and the proposal for repayment or denial of payments claimed, if any, to the applicant. If the applicant disagrees with the result of the audit findings or the proposal for repayment or denial of payments claimed, if any, it shall file with the Evaluation Board as written response that addresses each issue raised by the audit findings or the proposal for repayment or denial of payments claimed within 30 calendar days after receipt of the audit findings and the proposal for repayment or denial of payments claimed, if any. Thereafter, the Evaluation Board shall issue a final order that requires or does not require repayment, in whole or in part, of payments made, or does or does not deny payments claimed in whole or in part.

PART 12—FORMAL EVIDENTIARY PUBLIC HEARING

2. By adding new § 12.35(a)(10) to read as follows:

§ 12.35 Notice of hearing; stay of action.

(a) * * *

(10) A statement announcing that reimbursement for participation in the hearing is available under Subpart C of Part 10.

* * * * *

PART 13—PUBLIC HEARING BEFORE A PUBLIC BOARD OF INQUIRY

3. By adding new § 13.5(c) to read as follows:

§ 13.5 Notice of a hearing before a Board.

* * * * *

(c) If the hearing is held pursuant to § 13.1(a), (b), or (c), a statement announcing that reimbursement for participation in the hearing is available under Subpart C of Part 10.

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

4. By adding new § 14.20(b)(11) to read as follows:

§ 14.20 Notice of hearing before an advisory committee.

* * * * *

(b) * * *

(11) A statement announcing that reimbursement for participation in the hearing is available under Subpart C of Part 10.

* * * * *

PART 15—PUBLIC HEARING BEFORE THE COMMISSIONER

5. By adding new § 15.20(a)(3) to read as follows:

§ 15.20 Notice of a public hearing before the Commissioner.

(a) * * *

(3) If the hearing is held pursuant to § 15.1(a), (b), or (c), a statement announcing that reimbursement for participation in the hearing is available under Subpart C of Part 10.

* * * * *

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

6. In Part 16:

a. By adding new § 16.22(a)(5) to read as follows:

§ 16.22 Initiation of regulatory hearing.

(a) * * *

(5) State that reimbursement for participation in the hearing is available under Subpart C of Part 10.

* * * * *

b. In § 16.24 by redesignating paragraphs (b) through (f) as (c) through (g) and adding new paragraph (b) to read as follows:

§ 16.24 Regulatory hearing required by the act or a regulation.

* * * * *

(b) The notice shall state that reimbursement for participation in the hearing is available under Subpart C of Part 10.

* * * * *

Effective date. The reporting and recordkeeping requirements contained in this rule have been submitted for approval by the Office of Management and Budget in accordance with the Federal Reports Act of 1942. This regulation will become effective upon the approval of the Office of Management and Budget.

Dated: October 5, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79-31701 Filed 10-11-79; 8:45 am]

BILLING CODE 4110-03-M

federal register

Friday
October 12, 1979

Part XII

General Services Administration

Availability of Airline Discount Coupons; Temporary Regulations

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 101

[FPMR Temp. Reg. A-13]

Availability of Airline Discount Coupons; Temporary Regulations

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: The General Services Administration has obtained, through contract, discount coupons that may be used on certain airlines through December 15, 1979. This regulation provides instructions concerning the availability and use of these coupons for official travel by Government employees.

DATES: Effective date: October 12, 1979. Expriation date: June 30, 1980.

FOR FURTHER INFORMATION CONTRACT: Ms. Audrey E. Rish, Federal Travel Management Division (703-557-8510.)

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individual and, therefore, is not significant for the purposes of Executive Order 12044.

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

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

October 10, 1979.

FEDERAL PROPERTY MANAGEMENT REGULATIONS TEMPORARY REGULATION A-13

To: Heads of Federal agencies

Subject: Availability of airline discount coupons

1. *Purpose.* This temporary regulation provides instructions regarding the availability and use of airline discount coupons.

2. *Effective date:* This regulation is effective upon publication in the **Federal Register.**

3. *Expiration date.* This regulation expires on June 30, 1980.

4. *Background.*

a. United and American Airlines issued discount coupons that would result in a 50-percent fare reduction when used for round-trip travel taken during the period July 1 to December 15, 1979. Government agencies were advised to collect the coupons that were distributed by these airlines to Government employees traveling on official travel orders.

b. On June 4, 1979, GSA sent a teletype message to headquarters offices of executive agencies, subject: Half fare airline coupons, to explain the use and applicability of these airline coupons.

c. By letter of June 15, 1979, GSA advised agencies to use the coupons on the longer, more expensive trips because of limited availability. Agencies were also advised that coupons that could not be used on the more expensive trips by December 15, 1979, should be forwarded to GSA by November 1, 1979, for allocation to other agencies.

d. GSA is now obtaining, through contract, additional airline discount coupons for use by executive agencies prior to December 15, 1979. Therefore, the guidance furnished in the June 15, 1979, letter is modified and agencies are advised to use all available coupons to the maximum extent possible provided a savings is achieved in accordance with the provisions of this temporary regulations.

e. The use of these discount coupons should be consistent with the policy stated in OMB Bulletin No. 78-13 dated May 11, 1978, subject: Control of official travel.

5. *Airline discount coupons.* The GSA contract terms provide that the contractor will be paid for the coupons only when they are actually used; however, any coupons not used must be returned to the contractor. The coupons are serially numbered and will be so assigned to he requesting agency.

6. *Ordering procedures.* Orders for coupons shall be handled as follows:

a. *Requesting offices.*

(1) Each office that issues official travel orders or controls the purchase of airline tickets should take an inventory or otherwise determine the number of airline discount coupons on hand and also determine the expected volume of airline travel from the present date until December 15, 1979, on the airline(s) that will honor the coupons on hand.

(2) If it is determined that additional coupons can be used to reduce airline costs, the agency heardquarters office shall order the number of coupons needed from GSA's Central Office. The telephone number and the address are listed in Attachment A.

(3) Telephone order need not be confirmed in writing; however, the designated agency official accepting the additional discount coupons from GSA shall execute a form acknowledging receipt and the agency's liability for the coupons.

(4) Agencies shall route the traveler in a manner to maximize the use of coupons such as the use of connecting flights when available on the through-fare basis.

b. *General Services Administration (GSA).* Coupons will be prepositioned by GSA in their Central Office located in Crystal Mall Building No. 4 (see Attachment A for contact). Upon receipt of telephone requests, GSA will:

(1) Issue the number of coupons requested by the ordering agency's office;

(2) Furnish the requesting office with a list of the assigned coupon serial numbers;

(3) Indicate the amount due for each coupon if the coupon is used; and

(4) Provide the mane and address of the contractor to whom payment is to be made for all coupons used.

7. *Responsibilities.*

a. *Requesting agency.* Each requesting agency shall be:

(1) Accountable for all coupons issued to it;

(2) Responsible for payment of all coupons used;

(3) Required to ensure that unused tickets purchased with half fare coupons are transferred to another person going to the same destination, or to another person going to a different destination. To avoid paying for coupons that are not used, agencies shall apply all entirely unused tickets purchased with coupons toward the purchase of new half fare tickets before using additional coupons. In these instances, if an airline refuses to transfer the discounted ticket, the agency shall certify to the contractor that the coupon was so used and shall not forward payment to the contractor.

(4) Responsible for payment for coupons which are lost, destroyed, mutilated, or otherwise unaccounted for;

(5) Required to use the coupon on all airline trips where, considering the cost of the coupon, its use will achieve a savings to the Government;

(6) Required, upon notice from GSA in writing or by telephone, to return within a time frame specified by GSA, coupons issued to the agency under the provisions of this regulation which are unused or will not be used by the December 15, 1979, expiration date; and

(7) Required to issue any necessary final decisions concerning disputes with the contractor relating to the use or loss of coupons, or payment thereof, and to process any appeals from contractors in accordance with the procedures of the agency.

b. *General Services Administration.* GSA will:

(1) Obtain, if available, discount coupons for use by agencies;

(2) Maintain initial coupon accountability; and

(3) Distribute coupons to the agencies as requested.

8. *Records.* Agencies shall keep adequate records to document the savings realized from the use of the coupons acquired under this regulation.

9. *Payment procedures.* Procedures for obligation of funds and payment for supplies and/or services may vary between and within agencies. If procedures are not already established within the agency that would accommodate payment for the discount coupons and provide adequate controls, the following procedure is recommended:

a. A copy of the travel order would be stamped (or a statement typed thereon) as shown below to serve as obligation and payment support document:

Used (*airline name*) Coupon No.————

Signature of reservation clerk or other agency official

b. Attach the main portion of the discount coupon to the annotated travel order copy and forward to the agency paying office.

c. The paying office would prepare an inventory listing of used coupons by airline name (UA or AA) and serial number. Each inventory listing would show payment control identification such as "ABC agency discount coupon payment no.——."

(1) The original of the inventory listing and the supporting travel order with the main portion of the coupon would be retained in the agency paying office for control purposes.

(2) One copy of the inventory listing would be forwarded to the Department of the Treasury or the appropriate disbursing office for inclusion with the check to be mailed to the contractor.

(3) One copy of the inventory listing would be forwarded to contractor for information purposes.

(4) One copy of the inventory listing would be forwarded to the GSA Central Office. The address is indicated in Attachment A.

d. In accordance with Treasury Fiscal Requirements Manual 6–8000, payment is due the contractor within 30 days after the date of travel.

10. *Assistance.* Discount coupons may only be obtained from GSA's Central Office. However, for information on obtaining airline discount coupons, contact the any of the GSA offices listed in Attachment A.

R. G. Freeman, III,

Administrator of General Services.

FPMR Temporary Regulation A–13, Attachment A

General Services Administration; Transportation and Public Utilities Service

Region	Contact	Area jurisdiction
Central	H. Scott, Office A. Rish, Crystal Mall #4 (TTT), Rm. 323, Arlington, VA 20406, FTS: 8-557-8510/1/2/4, 8-557-8505, COML: 703-557-8510/1/2/4, 703-557-8505	Nationwide (Only source of coupons.)
Nat'l M. I.	Potosky, Capitol Seventh & D Streets, SW, Washington, DC 20407, FTS: 8-472-2003, COML: 202-472-2003	Washington, DC, Maryland (Prince Georges and Montgomery Counties), Virginia (Prince William, Fairfax, Loudoun, and Arlington Counties)

FPMR Temporary Regulation A–13, Attachment A—Continued

General Services Administration; Transportation and Public Utilities Service

Region	Contact	Area jurisdiction
1	J. A. Peterson, John W. McCormack, Post Office and Court House, (Room 820), Boston, MA 02019, FTS: 8-223-2735, COML: 617-223-2735	Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island
2	G. V. Keogh, 26 Federal Plaza, New York, NY 10007, FTS: 8-264-1286, COML: 212-264-1286	New York, New Jersey, Puerto Rico, Virgin Islands
3	R. L. Shanahan, Ninth & Market Streets, Philadelphia, PA 19107, FTS: 8-597-1247, COML: 215-597-1247	Pennsylvania, Delaware, West Virginia, Maryland (except Prince Georges and Montgomery Counties), Virginia, (except Prince William, Loudoun, Fairfax, and Arlington Counties)
4	Barbara Bishop, 75 Spring St., SW., Atlanta, GA 30303, FTS: 8-242-5121 COML: 404-221-5121	North Carolina, South Carolina, Tennessee, Alabama, Georgia, Kentucky, Florida, Mississippi
5	K. E. Mazikowski, 230 South Dearborn St., Chicago, IL 60604, FTS: 8-353-5475, COML: 312-353-5375	Illinois, Wisconsin, Michigan, Indiana, Ohio, Minnesota
6	D. W. Jones, 1500 E. Bannister Road, Kansas City, MO 64131, FTS: 8-926-7555, COML: 816-926-7555	Missouri, Kansas, Iowa, Nebraska
7	J. A. Pitner, 819 Taylor Street, Fort Worth, TX 76102, FTS: 8-334-2733, COML: 817-334-2733	Texas, Louisiana, Arkansas, Oklahoma, New Mexico
8	B. L. Fischbach, Building 41, Denver, Federal Center, Denver, CO 80225, FTS: 8-234-2626, COML: 303-234-2626	Colorado, Wyoming, Utah, Montana, North Dakota, South Dakota
9	W. E. Lacey, III, 525 Market Street, San Francisco, CA 94105, FTS: 8-556-3271, COML: 415-56-3271	California, Nevada, Hawaii, Arizona
10	E. V. Peterson, GSA Center, Auburn, WA 98002, FTS: 8-396-5411, COML: 206-833-6500	Washington, Oregon, Idaho, Alaska

[FR Doc. 79-31768 Filed 10-11-79; 9:35 am]

BILLING CODE 6820-AN

Reader Aids

Federal Register

Vol. 44, No. 199

Friday, October 12, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, OCTOBER

56305-56662.....1
56663-56918.....2
56919-57064.....3
57065-57378.....4
57379-57906.....5
57907-58492.....9
58493-58670.....10
58671-58888.....11
58889-59194.....12

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
10893 (Revoked by EO 12163).....56673
10900 (Amended by EO 12163).....56673
10973 (Revoked by EO 12163).....56673
11223 (Amended by EO 12163).....56673
11269 (Amended by EO 12164).....56681
11579 (Amended by EO 12163).....56673
11846 (Amended by EO 12163).....56673
11958 (Amended by EO 12163).....56673
12065 (Amended by EO 12163).....56673
12087 (Superseded by EO 12165).....58671
12092 (Amended by EO 12161).....56663
12140 (Amended by EO 12162).....56665
12161.....56663
12162.....56665
12163.....56673
12164.....56681
12165.....58671

Proclamations:
4693.....56669
4694.....56671
4695.....58493

Administrative Orders:

Memorandums:
October 18, 1961 (Amended by EO 12163).....56673

Presidential Determination:
No. 79-17 of September 28, 1979.....56667

5 CFR

340.....57379
353.....56683
451.....58889
890.....57379

6 CFR

705.....56900, 58891
706.....56910, 58891

Proposed Rules:
702.....59166
703.....59166
704.....59166

7 CFR

2.....57907, 58495, 58679
6.....58893
15a.....57907
16.....56919
29.....57907
282.....59052
421.....58893
906.....57909
908.....57065, 58680
910.....57383, 58893
929.....56683
932.....58495
966.....58894
979.....56684
982.....57065
1139.....57066
1421.....56305, 57383
1464.....57909, 58894
1822.....56919
1861.....56920
1941.....58895
1942.....56684
1951.....56306
1980.....56920, 58896

Proposed Rules:
6.....56943
20.....57931
27.....57932
272.....57414
273.....57414, 58915
318.....57415
725.....57932
729.....57416
981.....57417
1065.....57103
2853.....58916
2858.....58916

8 CFR

100.....56311

Proposed Rules:
103.....56368

9 CFR

78.....57384
92.....58896
113.....58897

Proposed Rules:
92.....58918

10 CFR

50.....57911, 57912
51.....56312
211.....56888, 57067
212.....57069
320.....58900
476.....57370
570.....56921

Proposed Rules:
211.....56369
214.....57103
220.....56369
375.....56953

376.....56953

11 CFR

Proposed Rules:
100.....59162
110.....59162
114.....59162

12 CFR

Ch. VII.....56691
201.....57385
202.....57070
207.....56922
220.....56922
221.....56922
224.....56922
226.....56312
263.....56685
265.....56313
346.....57385
545.....57386
704.....58496
742.....57071

Proposed Rules:
Ch. II.....58744
Ch. V.....57419
545.....58744

13 CFR

121.....57914

Proposed Rules:
111.....58745

14 CFR

39.....56315–56322, 57072, 57073, 58680–58684
71.....56322, 56323, 57075–57080, 57083, 57084, 57915–57917, 58684–58686
73.....57080–57082
75.....57082–57084
97.....57918
207.....58499
208.....58499
212.....57386, 58500
214.....57387, 58500
221a.....57085
241.....58500
287.....57085
1214.....56923

Proposed Rules:
Ch. I.....56369
Ch. V.....56377
11.....56370
21.....56370
37.....56370
39.....57105
71.....56373–56376, 57106, 57934–57938
73.....58746
93.....56376

15 CFR

30.....58686

16 CFR

13.....56323, 56923, 57920, 58901–58906
1700.....57920

Proposed Rules:
Ch. II.....57352
13.....58516, 58518, 58747

17 CFR

210.....57030, 57037
211.....57038
231.....56924
240.....57387
241.....56924
249.....57374, 57387
270.....58502, 58907

Proposed Rules:
240.....56953
270.....58521

18 CFR

2.....56926
154.....57726
201.....57726
204.....57726
271.....56926
282.....57726, 57754, 57778
290.....58687

Proposed Rules:
282.....57783, 57786, 57788 58749
292.....57107

19 CFR

4.....57086, 57087
101.....57088

Proposed Rules:
134.....58527
155.....57044
159.....57044
177.....56715

20 CFR

404.....56691
675.....56866
680.....56866

Proposed Rules:
615.....56715

21 CFR

10.....59174
12.....59174
13.....59174
14.....59174
15.....59174
16.....59174
109.....57389
510.....57389
558.....57389
1316.....56324

Proposed Rules:
166.....57422
203.....58918
310.....58919
312.....58919
314.....58919
890.....57939, 57940, 58919
1020.....57423

22 CFR

515.....58708

Proposed Rules:
216.....56378

24 CFR

Ch. XIII.....58507
42.....56324
203.....57089
205.....57090
207.....57090
213.....56927, 57089, 57090
220.....57090
221.....57090
232.....57090
234.....57089
235.....57090
236.....57090
240.....58503
241.....57090
242.....57090
244.....57090
250.....57090
290.....56608
403.....58503
510.....58506
570.....56325
803.....59112
841.....57922
888.....57925, 59112

Proposed Rules:
203.....58527
888.....58528

25 CFR

31a.....58096
31b.....58101

26 CFR

1.....57390, 57925
7.....57390

Proposed Rules:
Ch. I.....56502
1.....57423, 57427
31.....57940
301.....56715

27 CFR

9.....56692
201.....56326

28 CFR

0.....57926, 58908
2.....58507
50.....57926

Proposed Rules:
2.....58528
16.....58920, 58921

29 CFR

14.....57397
2610.....58908
1604.....58073
2703.....57348

30 CFR

Ch. VII.....57927
701.....58783
741.....58783

32 CFR

51.....56328
199.....58709
231.....56328
706.....56929, 57400
901.....56930

Proposed Rules:
56.....58750

33 CFR

127.....57092, 57927
147.....57927
165.....57928, 57929

35 CFR

133.....56916
253.....56693

Proposed Rules:
133.....57941

36 CFR

50.....56934
1228.....58088

Proposed Rules:
Ch. IX.....56954, 58528

38 CFR

3.....58709

Proposed Rules:
3.....58758
36.....56329, 58508

39 CFR

111.....58509

40 CFR

52.....56694, 57401
65.....56696
81.....57929
117.....58711, 58909
231.....58076
257.....58910
413.....56330
600.....57358

Proposed Rules:
40.....56955
50.....56730
51.....56957, 57107
52.....56716, 56717, 56721, 56957, 57107, 57109, 57117, 57118, 57427, 57942, 58758, 58921
55.....56721, 58759
60.....57792, 58602
61.....58642, 58661
62.....57118, 57948
81.....57942, 58758, 58922
120.....57428
122.....56957
162.....57429
250.....56724, 58923
600.....57362
707.....56856
713.....59106

41 CFR

Ch. 101.....56699, 59192
101–29.....58910

Proposed Rules:
Ch. 25.....56387
9.....57119
9–7.....57119
109.....57121
109–60.....57121

42 CFR

57.....56937
71.....58911
456.....56333

Proposed Rules:
74.....58923
405.....58923

43 CFR

221.....56339
2880.....58126
3400.....56339
3410.....56339
3420.....56339
3422.....56339
3430.....56339
3440.....56339
3450.....56339
3460.....56339

3470 56339
3500 56339
3501 56339
3502 56339
3503 56339
3504 56339
3507 56339
3511 56339
3520 56339
3521 56339
3524 56339
3525 56339
3526 56339
3550 56339
3564 56339
3565 56339
3566 56339
3568 56339

Proposed Rules:

4 57948
34 59096
1780 56622
2800 58106
3100 58638

44 CFR

64 ..... 56354, 57092, 57093
65 57094
67 ..... 56366, 56701

Proposed Rules:

67 ..... 56957, 57429–57432

45 CFR

Ch. I 56938
20 58912
55 58912
61 58912
80 58509
82 58912
116 59152
116a 59152
304 56939
1010 56548
1012 56548
1050 56548
1060 56548
1061 ..... 56548, 58876
1062 56548
1063 56548
1064 56548
1067 56548
1068 56548
1069 56548
1070 56548
1075 56548
1076 56548
1624 58712

Proposed Rules:

Ch. VI 56387
Ch. XI 56389
234 56389
236 56389
617 57127
1152 56725
1172 57130

46 CFR

503 57411

Proposed Rules:

66 57137
283 58928
355 58928

47 CFR

0 57096
2 58712
18 56699
61 57096
73 ..... 57097, 58718–58729, 58912
74 58729
90 ..... 57098, 58737
97 58742

Proposed Rules:

0 57636
21 58929
73 ..... 57138, 57636, 58762–58764
76 58766

49 CFR

192 57100
213 56342
571 57100
801 ..... 56340, 57930
1011 58511
1033 ..... 56343, 56939, 58913, 58914
1100 58511
1307 57413
1310 57413
1322 57930

Proposed Rules:

Ch. X 57139
110–189 58767
172 58767
173 58767
195 57952
575 56389

50 CFR

13 59080
17 ..... 56862, 58866, 58868, 59080
32 ..... 56940, 56941
216 57100
611 57101
652 56941
653 ..... 56700, 56701
810 59086

Proposed Rules:

17 56618
285 57140

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

Last Listing October 10, 1979

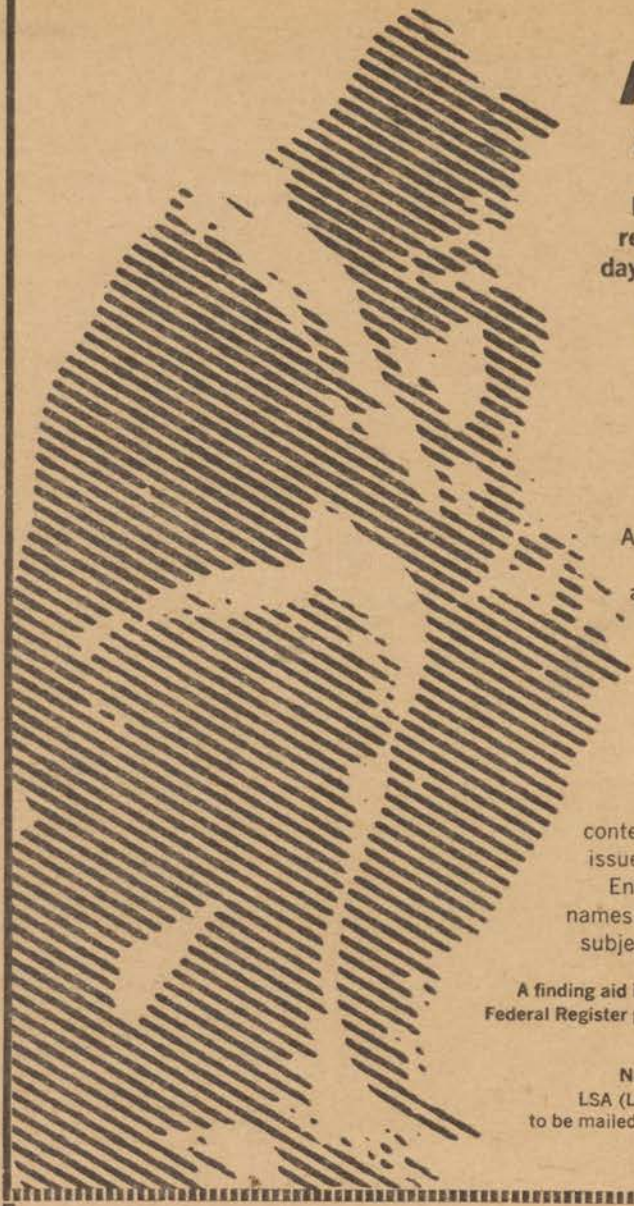
This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.J. Res. 303 / Pub. L. 96–80 Authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 7, 1979, as "National Port Week". (Oct. 6, 1979; 93 Stat. 641) Price $.75.

S. 721 / Pub. L. 96–81 "Civil Rights Commission Authorization Act of 1979". (Oct. 6, 1979; 93 Stat. 642) Price $.75.

S. 237 / Pub. L. 96–82 "Federal Magistrate Act of 1979". (Oct. 10, 1979; 93 Stat. 643) Price $.75.

S. 756 / Pub. L. 96–83 "Office of Federal Procurement Policy Act Amendments of 1979". (Oct. 10, 1979; 93 Stat. 648) Price $.75.



would you like to know

if any changes have been made in certain titles of the CODE OF FEDERAL REGULATIONS without reading the Federal Register every day? If so, you may wish to subscribe to the LSA (List of CFR Sections Affected), the "Federal Register Index," or both.

LSA (List of CFR Sections Affected)
$10.00
per year

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register, and is issued monthly in cumulative form. Entries indicate the nature of the changes.

Federal Register Index $8.00
per year

Indexes covering the contents of the daily Federal Register are issued monthly, quarterly, and annually. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers: FR Indexes and the LSA (List of CFR Sections Affected) will continue to be mailed free of charge to regular FR subscribers.

Mail order form to:
Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

There is enclosed $_____ for _____ subscription(s) to the publications checked below:

..... LSA (LIST OF CFR SECTIONS AFFECTED) ($10.00 a year domestic; $12.50 foreign)

..... FEDERAL REGISTER INDEX ($8.00 a year domestic; $10.00 foreign)

Name _____

Street Address _____

City _____ State _____ ZIP _____

Make check payable to the Superintendent of Documents